



Repertoire  
of the  
Practice  
of the  
Security Council  
Supplement 1956-1958

UNITED NATIONS

DEPARTMENT OF POLITICAL AND SECURITY COUNCIL AFFAIRS

*New York, 1959*

**NOTE**

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ST/PSCA/1/Add.2

UNITED NATIONS PUBLICATION

Sales No. : 59. VII. 1

Price :\$ U.S. 2.50 ; 17/6 stg. ; Sw. fr. 10.50  
(or equivalent in other currencies)

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## GENERAL INTRODUCTION

The present volume constitutes the second supplement to the *Repertoire of the Practice of the Security Council, 1946-1951*, which was issued in 1954. It covers the proceedings of the Security Council from the 710th meeting on 12 January 1956 to the 844th meeting on 15 December 1958. Further supplements covering the proceedings of later meetings will be issued at suitable intervals.

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

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

As was observed in the original volume, the *Reper-*

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

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

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

### Editorial note

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

177th meeting : para. 10.

2. S/documents are identified by their serial number in the S/series. Where the S/document has been printed in the supplements to the Official Records, an additional reference has been given accordingly. For S/documents printed only in the Official Records of meetings, reference is given to the meeting and page. S/references without addition indicate that the text is available only in the S/series.

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

See chapter X, Case 11.

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

See Case 11.

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

5. The original volume of the *Repertoire* should be cited as *Repertoire of the Practice of the Security Council 1946-1951*. The present volume should be cited as *Repertoire of the Practice of the Security Council, Supplement 1956-1958*.

**Chapter I**

**PROVISIONAL RULES OF PROCEDURE OF THE  
SECURITY COUNCIL**

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## INTRODUCTORY NOTE

The material included in this chapter pertains to the proceedings of the Security Council in relation to all the provisional rules of procedure with the exception of the rules dealt with in other chapters as follows: Chapter II: Agenda (rules 6-12); chapter III: Participation in the proceedings of the Council (rules 37-39); chapter VII: Admission of New Members (rules 58-60); and chapter VI: Relations with other organs (rule 61). Material relating to the application of Article 27 (rule 40) is presented in chapter IV.

The major headings under which the material is presented in this chapter follow the classification previously adopted for the *Repertoire*. The arrangement of each part is based on the successive chapters

of the provisional rules of procedure of the Security Council.

During the period under review, the Council has not considered the adoption or amendment of rules of procedure. Therefore, the case histories included under each rule are confined to those proceedings of the Council in which a question has arisen regarding the application of the rule or where discussion has taken place regarding a temporary departure from the usual practice. As was noted in the previous volumes, the case histories in this chapter do not constitute cumulative evidence of the practice of the Council, but are indicative of special problems which have arisen in the proceedings of the Council under its provisional rules.

### Part I

#### MEETINGS (RULES 1-5)

##### NOTE

The proceedings of the Security Council relating to rules 1-5 of the provisional rules of procedure reflect the provisions of Article 28 of the Charter. In accordance with paragraph 1 of the Article, which provides that the Council "be so organized as to be able to function continuously", rule 1 stipulates that "the interval between meetings shall not exceed fourteen days". As in earlier periods, when no particular item on the agenda required immediate consideration, the President has consulted with the representatives on the Council to ascertain whether there was any objection to his intention to waive rule 1. During the period under review, the rule was thus waived twenty-two times.

In recent years consultation has generally taken place before the calling of a meeting. The summoning of a meeting in urgent circumstances has given rise to discussion with respect to omission of such prior consultation with members of the Council (Cases 2 and 3), and the effect on requirements as to timely submission of credentials (Case 4).

No periodic meetings, as provided under rule 4, were held during the period covered by this *Supplement*.

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

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

###### a. Rule 1

###### CASE 1

At the 734th meeting on 26 September 1956, in connexion with items submitted by France and the

United Kingdom and by Egypt concerning the Suez Canal, the representative of the United Kingdom suggested that the Council adjourn until the afternoon of 4 October 1956 to enable the Foreign Ministers of the countries concerned to take part in the meetings. The suggestion of the representative of Iran to adjourn until 5 October 1956 was supported by the representatives of Peru and the USSR.

The representative of the United Kingdom thereupon urged that the President (Cuba) consult the convenience of delegations and set a date accordingly. The representative of Iran agreed, observing that in any case, under the rules of procedure, it was for the President to decide the date of the next meeting.

The President stated that though he would no longer be President the following month he would, on 28 September, consult the members of the Council through the Secretariat, and then call a meeting on the date chosen by the majority.<sup>1</sup>

###### b. Rule 2

###### CASE 2

At the 746th meeting on 28 October 1956, when the provisional agenda included the letter<sup>2</sup> dated 27 October 1956 from the representatives of France, the United Kingdom and the United States concerning the situation in Hungary, the representative of the USSR, speaking

<sup>1</sup> For texts of relevant statements, see:

734th meeting: President (Cuba), paras. 163, 165; Iran, paras. 84, 161; Peru, para. 158; USSR, paras. 156-157; United Kingdom, paras. 10, 22, 159-160; United States, para. 44.

<sup>2</sup> S/3690, O.R., 11th year, *Suppl. for Oct.-Dec. 1956*, p. 100.

on a point of order, stated that the meeting had been called in a manner inconsistent with the traditions of the Council, for the President (France), in fixing the date and time of the meeting, had failed to consult certain members, including the delegation of the Soviet Union. This disregard by the President of certain members was inadmissible, and the haste with which the meeting had been convened on the question raised by the letter of 27 October was in no way justified by the circumstances.

The President stated that he was required, under the rules of procedure, to call a meeting at the request of any member or members of the Council, and that when a meeting was requested as a matter of urgency, the President was required to convene the meeting as such. There was nothing in the rules of procedure which required the President to consult his colleagues. Quite apart from considerations of courtesy, the President would in any event have been unable to hold consultations in the short time that was available. However, he had asked the Secretary of the Council to notify all members immediately, and that had been done.

The representative of the USSR replied that, although the President had described the rules of procedure correctly, a definite tradition with regard to fixing the date of a meeting existed in the Council, and had never previously been infringed. In this instance it had been infringed without any justification.<sup>5</sup>

<sup>5</sup> For texts of relevant statements, see :

746th meeting : President (France), para. 3 ; USSR, paras. 1, 4.

### CASE 3

At the 752nd meeting on 2 November 1956, the provisional agenda included the letter<sup>4</sup> dated 27 October 1956 from the representatives of France, the United Kingdom and the United States, concerning the situation in Hungary. The President (Iran) informed the Security Council that by another letter<sup>5</sup> dated 2 November 1956, the three representatives had requested an urgent meeting of the Council to consider the item on the situation in Hungary of which the Council had already been seized. The President, having noted that the letter had reached him at 1.00 p.m. that afternoon, stated that the urgency of the matter of which the Council was already seized had left him no choice but to convene the Council. It had been impossible to consult members beforehand. He hoped in future to have the necessary time for such consultations.

The representative of the USSR stated that in view of the President's explanation there was no need for him to dwell on the hurried manner in which the meeting of the Council had been called.<sup>6</sup>

<sup>4</sup> S/3690, O.R., 11th year, Suppl. for Oct.-Dec., 1956, p. 100.

<sup>5</sup> S/3723, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 117.

<sup>6</sup> For texts of relevant statements, see :

752nd meeting : President (Iran), para. 3 ; USSR, para. 5.

## Part II

### REPRESENTATION AND CREDENTIALS (RULES 13-17)

#### NOTE

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

In one instance during the period under review, the question of the validity of the credentials of the representative of a Member State invited to participate in the discussions of the Council was raised. The discussion turned on three questions : (a) whether rule 14 or rule 17 was to be applied ; (b) whether an invited representative could be seated at the Council table without permission to speak pending the verification of his credentials ; and (c) whether credentials empowering a representative to participate in a special session of the General Assembly could be accepted as empowering him to participate on invitation in the discussions of the Council (Case 4).

The question of the continued validity of the credentials of the representative of a member of the Council in circumstances of contested authority to issue credentials was discussed in the proceedings presented in Cases 5 and 6.

The proceedings relating to Cases 4, 5 and 6 have been presented as a whole under rules 13-17 of the provisional rules of procedure because the discussions in connexion therewith touched upon all the rules included in chapter III of the rules of procedure.

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

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

##### Rules 13-17 in general

### CASE 4

At the 752nd meeting on 2 November 1956, in connexion with the letter dated 27 October 1956 from the representatives of France, the United Kingdom and the United States concerning the situation in Hungary, the President (Iran) invited the representative of Hungary, Mr. Szabo, to take a place at the Council table. The President then called upon the representative of China on a point of order.

The representative of China, having stated that at a previous meeting of the Council [746th meeting] a

representative of Hungary had been asked to participate in the debate, inquired of the President whether he had any assurance that the person invited did in fact represent the Government of the Hungarian Republic, and, if so, whether he would give the Security Council the necessary assurance in regard to his representative character.

The President observed that in the absence of evidence to the contrary the Council was supposed to accept the representative of a country as long as his status had not been disapproved.

The representative of the United States requested that the credentials "of the gentleman who is sitting in the seat of Hungary" be submitted to the Council so that it could see whether he did in fact represent the Hungarian Government.

The President said that under the rules of procedure credentials must be submitted to the Secretary-General, whose duty it was to study their validity.

The Under-Secretary stated that the meeting of the Council had been called at very short notice, and that when, with the permission of the President and under his instructions, he had informed the Hungarian delegation, he had been told that a representative would attend the meeting. He had also been informed by Mr. Szabo that he had been authorized by his Government to act in the absence of Ambassador Kos. The Under-Secretary added that he had just been informed that a cable had been received from the Hungarian Government signed by Imre Nagy, Prime Minister and Acting Minister of Foreign Affairs, appointing Mr. Szabo as representative at the emergency session of the General Assembly which convened on 1 November 1956.

The representative of the United States, after quoting rules 14 and 15 of the rules of procedure, raised the question "whether this gentleman here on my left" was qualified, in the light of those rules, to sit at the Council table.

The President replied that he had been aware of the two rules which the representative of the United States had read out, but:

"... as the Council was called on only three hours' notice, it was very difficult to ask the representative of a country to submit his credentials twenty-four hours before the meeting. It was physically impossible for the Secretariat to comply with the requirements of the rules mentioned.

"... but as the rules of procedure allow us to seat the representative of a country provisionally pending the approval of his credentials, I would suggest that the representative of Hungary should sit at the Council table, but should not make a statement until the Secretariat has time to verify his credentials."

The representative of the United Kingdom stated that he had a slight doubt whether it would be proper to provide that until the credentials had been verified, the representative should merely sit at the table and not speak. Under rule 16, the representative would appear to have the same rights as other representatives.

The representative of the United States supported the suggestion made by the President.

The representative of the USSR maintained that at the 746th meeting the Security Council had adopted a decision to invite the representative of Hungary to participate in the consideration of the item. That decision still stood. In opposition to the President's suggestion, he drew the attention of the Council to rule 17 of the rules of procedure.

The representative of Peru acknowledged that rule 17 was quite explicit, but the President's suggestion imposed a moral duty on the representative of Hungary, who, moreover, would only be entitled to speak after the members of the Council had stated their views. He suggested that the Council adopt the President's suggestion, without specifically challenging rule 17.

The representative of Cuba expressed the view that rule 17 did not apply to the present case, but solely to the representatives of members of the Security Council who were to be enabled thereby to continue discharging their duties as long as their credentials were not declared invalid. If rule 17 were to apply, it was quite conceivable that "this gentleman might make a statement on behalf of a Government he was not authorized to represent". Rule 14, which alone was pertinent, required that the credentials of a representative be submitted before the meeting. As a compromise measure, however, the representative of Cuba was prepared to accept the President's suggestion.

The representative of Yugoslavia observed that since three members of the Council had deemed it necessary to call an emergency meeting of the Council, the Council should also apply the emergency rule of procedure, namely rule 17, which in his view was applicable not only to members of the Security Council, but also to any representative in the Council. Therefore, the Security Council should either recognize the right of the representative of Hungary to participate in the discussions with the same rights as any other representative, or adjourn the meeting.

The President, after observing that there would be no opportunity for the representative of Hungary to speak at that meeting, stated:

"... In the circumstances, it might be better to take no decision, because I know that there is uncertainty in the minds of lawyers as to whether rule 17 applies exclusively to members of the Security Council or also to States invited to participate in the debate..."

He thought it would be advisable, following the suggestion of the representative of Peru, to leave the question to the discretion of the President and proceed with the discussion. There was no need to take a decision on the question of credentials, as the Secretariat would have an opportunity to verify them in the meantime.

The representative of Australia pointed out that at the instant meeting the place of the permanent representative of Hungary had been taken at the Council table by a member of the Permanent Mission of Hungary who, like all members of permanent missions listed in the official list, had presumably been properly accredited

by the head of his mission. This conferred on him a certain official character reinforced by the arrival of a telegram establishing credentials for his appearance at the emergency special session of the General Assembly. The question was whether Mr. Szabo was qualified to sit at the table of the Security Council. The rules of procedure were provisional and had not envisaged a meeting called with such urgency that the credentials of a new representative could not be verified beforehand. He suggested that as a matter of democratic procedure "the gentleman who has taken the seat of the representative of Hungary" might be asked to inform the Council in what capacity he appeared.

Following further discussion indicating agreement that the representative of Hungary should be seated, the representative of Peru proposed formally that the Security Council leave the matter in the hands of the President.

**Decision:** *The proposal of the representative of Peru was adopted without objection.*<sup>6a</sup>

#### CASE 5

At the 827th meeting on 15 July 1958, in connexion with the letter<sup>7</sup> dated 22 May 1958 from the representative of Lebanon addressed to the President of the Security Council, the representative of the USSR asked that the powers of the representative of Iraq be clarified before the Security Council proceeded to the adoption of the agenda. He understood that there was a communication to the effect that the revolutionary Government of Iraq had recalled the representative of Iraq and had named a new representative to the United Nations and to the Security Council.

The President (Colombia) declared that according to the rules of procedure, questions relating to the credentials of members of the Council were to be determined by the Secretary-General. He called upon the Secretary-General.

The Secretary-General stated that the communication which he had received that morning regarding the question of credentials was signed "Ministry of Foreign Affairs" rather than by any person. His only information concerning the formation of a new cabinet emanated from Baghdad Radio. He noted that article 5 of the ratified Constitution of the Arab Union provided that "The King of Iraq shall be head of the Union, and, in his absence, the King of Jordan shall be the head". Furthermore, he had noted the declarations which King Hussein of Jordan had made regarding the Government which claimed to be the Government in Baghdad. Under the circumstances, he had not felt that the communication was in order as credentials.

<sup>6a</sup> For texts of relevant statements, see :

752nd meeting : President (Iran), paras. 7-8, 10, 13, 17-19, 35 ; Australia, paras. 37-40 ; China, para. 9 ; Cuba, paras. 27-28, 31 ; Peru, paras. 25-26, 43-44 ; USSR, para. 22 ; United Kingdom, para. 20 ; United States, paras. 11, 16, 21 ; Yugoslavia, paras. 32, 34 ; Under-Secretary, paras. 14-15.

<sup>7</sup> S/4007, O.R., 13th year, Suppl. for Apr.-June 1958, p. 33.

The representative of the USSR thought the Security Council should consider and confirm in accordance with the rules the new credentials contained in the communication referred to by the Secretary-General. Iraq was an independent country, and the King of Jordan had no right to give orders to the new Government. No instructions from the King could have binding force on the Security Council, the United Nations and the representative of Iraq. Iraq's seat in the Council could be held only by a legitimate representative of Iraq appointed by the legitimate Government of Iraq, which was the revolutionary Government in Baghdad. Under the United Nations Charter and the rules of procedure, the Security Council was empowered to accept the representation only of the new representative appointed by the Government of Iraq.

The representative of the United Kingdom observed that the credentials of Mr. Abbass as the representative of Iraq on the Security Council had been duly presented to the Secretary-General. It was undoubtedly the legitimate Government of Iraq which had issued those credentials. The representative of Iraq was fully entitled, under rule 16 of the rules of procedure, to take his seat in the Security Council with the same rights as other representatives, and, under rule 17, to continue to sit unless objection to his credentials had been sustained by a vote of the Council. The objection to the credentials of the representative of Iraq should not be upheld, nor should the Council pursue the question of the alleged credentials of the alleged representative of the revolutionary Government.

The representative of Panama observed that the revolutionary Government of Iraq was a *de facto* Government which had not been duly recognized. Under these circumstances, "any objection to the credentials of the representative of Iraq would not be valid on the present occasion".

The representative of the USSR, having cited a communication dated 15 July 1958 from Beirut to the effect that the revolutionary Government of Iraq had asked for a postponement of the emergency meeting of the Security Council and had decided to send a new representative to the United Nations, observed :

"... neither the Security Council nor the Secretary-General nor the King of Jordan have the right to speak either for the people of Iraq or for the Government of Iraq. It is only the Iraq people, the Iraq Government, which can appoint or recall their accredited representatives to the various organs of the United Nations, and specifically to this Council."

The Soviet delegation considered, therefore, that the powers of the present representative of Iraq in the Council were no longer valid.

The representative of Panama replied that there was no need to pass on the question of credentials at that time, that sufficient time had not elapsed to demonstrate that the new Government was in a position to fulfil its international commitments and maintain public order, and that the Council lacked clear and concrete information. He asked that the Council pass to the matter on the agenda.

The President stated :

"Bearing in mind the report submitted by the Secretary-General, and in accordance with rule 17 of the provisional rules of procedure of the Security Council, the President is of the opinion that we should continue with our agenda for this meeting, unless a member of the Council wishes to submit to the vote the question of credentials which was raised by the Soviet Union representative."<sup>8</sup>

The Council decided, without objection, to proceed to consider its agenda.<sup>9</sup>

#### CASE 6

At the 834th meeting on 18 July 1958, in connexion with the letter<sup>10</sup> dated 22 May 1958 from the representative of Lebanon, the Secretary-General submitted, under rule 15 of the provisional rules of procedure, an oral report on the question of the credentials of the representative of Iraq, as follows: First, the Secretary-General had received a letter, dated 15 July 1958 and signed by Mr. A. Joumaro, the Foreign Minister of Iraq, declaring that his Government had appointed Mr. Jawad as the representative of Iraq on the Security Council and that the credentials of Mr. Abbass had been withdrawn. Second, the Secretary-General had previously received a cable, dated 17 July 1958, stating that on 15 July 1958 the Council of the Ministers of the Republic of Iraq had declared the withdrawal of Iraq from the Arab Union with Jordan, and that the Government of the Republic considered as null and void all commitments and obligations which had arisen from that Union. Third, the Secretary-General drew the attention of the Council to article 1 of the Constitution of the Arab Union, that: "The Head of the Union appoints diplomatic representatives of the Union". He observed that this provision had to be read together with article 5 of the Constitution, that: "The King of Iraq shall be the Head of the Union, and in his absence the King of Jordan shall be the Head".

The representative of the USSR maintained that the credentials of the representative of Iraq, Mr. Jawad, were fully in accord with the provisions of rule 13 of the rule of procedure, and that they were duly signed by the Minister of Foreign Affairs of Iraq. There could, therefore, be no doubt that Mr. Jawad was the representative of Iraq on the Security Council. With respect to the observations made by the Secretary-General regarding the provisions of articles 5 and 51 of the Constitution of the Arab Union, the representative of the USSR declared that the Constitution had ceased to exist when the Republic of Iraq withdrew from the Arab Union. Even if objections were made to the credentials of Mr. Jawad, he was to sit in the seat of Iraq, in accordance with rule 17 of the provisional rules of

procedure, until the Security Council had decided the matter.

The representative of the United Kingdom stated that the Security Council had made its position clear at the previous meeting when it had not even found it necessary to vote on the matter. His delegation was not prepared to recognize any document purporting to have issued from the revolutionary authorities in Baghdad as having affected the validity of the credentials of Mr. Abbass.

The representative of Iraq, Mr. Abbass, in reply to the inquiry of the representative of the USSR concerning the identity of the person who had signed his credentials, stated that the letter of credentials had been signed by the Foreign Minister of Iraq before the Union between Jordan and Iraq had become effective. Subsequently, he had been confirmed in his position by the Foreign Minister of the Union who had not deemed it necessary to issue new credentials. The Constitution of the Arab Union stipulated that among the questions which were entrusted to the Government of the Union was foreign affairs, and that all previous matters of foreign affairs would remain in force. After the recent turn of events in Iraq, he had sought a legal interpretation of his position. He had received official communications from Amman stating that, in the absence of the King of Iraq, the King of Jordan had assumed his constitutional authority as the head of the Arab Union and that the direction of foreign affairs of the Union had been transferred to Amman, and directing him to continue to represent Iraq in the United Nations and the Security Council and to receive his instructions from the Ministry of Foreign Affairs in Amman. He had also been notified of the appointment by King Hussein of a new Minister for Foreign Affairs for the Arab Union.

The Secretary-General, in reply to the inquiry of the representative of the USSR, stated that, according to the information available to the Secretariat, the Constitution of the Arab Union, after having received preliminary approval in accordance with the respective constitutions of Iraq and Jordan, had been signed by King Faisal and King Hussein in Baghdad on 12 May 1958, and had come into force on that date. The letter of credentials of Mr. Abbass had been signed by the then Minister of Foreign Affairs on 18 May. Finally, the Secretary-General, in confirmation of the statement made by the representative of Iraq, cited a provision of the Constitution of the Union, which read as follows :

"Article 62(a). The following affairs shall be within the exclusive jurisdiction of the Government of the Union :

"1. Foreign affairs and diplomatic and consular representation."

The representative of the USSR pointed out that only Iraq had been elected as a member of the Security Council. Mr. Abbass sat in the seat of the representative of Iraq, and not of the Arab Union. Two States represented the Arab Union in the United Nations, namely, Iraq and Jordan. After the establishment of the Union, these two States had not merged and had not forfeited

<sup>8</sup> For texts of relevant statements, see :

827th meeting (PV) : President (Colombia), pp. 2, 16-20 ; Panama, p. 6 ; USSR, pp. 2-5, 7-11 ; United Kingdom, p. 6 ; Secretary-General, p. 2.

<sup>9</sup> 827th meeting (PV) : pp. 16-20.

<sup>10</sup> S/4007, O.R., 13th year, Suppl. for Apr.-June 1958, p. 33.

their sovereignty as far as their representation in the United Nations was concerned. This was a different situation from the one which had arisen in connexion with the establishment, by Egypt and Syria, of the United Arab Republic which was represented in the United Nations only by one representative. The credentials of Mr. Abbass, as appeared clearly from the replies made by the Secretary-General and Mr. Abbass himself, were signed by the Minister of Foreign Affairs of Iraq, and not of the Federation. These credentials had been cancelled out by the other credentials signed by the Minister of Foreign Affairs of Iraq and issued to Mr. Jawad. This was a perfectly normal situation which might happen to any or all the representatives on the Security Council. In the present instance, however, the difficulty stemmed not from the juridical situation, but from the political attitude of certain countries toward the new Government of Iraq contrary to the Charter of the United Nations, since no Member could intervene, nor could the Organization itself, in the domestic affairs of Member States.

The President (Colombia) expressed his agreement with the representative of the USSR in considering that the question of the credentials ought to be settled in the light of rule 17 of the provisional rules of procedure. It was the considered opinion of the Chair that this rule should be so interpreted as to indicate that the representative of Iraq who had been occupying the seat of Iraq in the Council should continue to sit in the seat of Iraq, with the same rights as other representatives, until the Council arrived at another conclusion. He added that, in the absence of a motion calling for a vote on the particular matter, the President's ruling was that the Council should continue the discussion of the item on the agenda.

The representative of the USSR observed that a question such as the approval of credentials could not be decided by a mere ruling of the President, for the question required a formal decision by the Council. Since the Council was not yet prepared to take such a

decision, he would reserve his right to raise the question at another more appropriate time.<sup>11</sup>

On 6 August 1958, the Secretary-General submitted a report<sup>12</sup> to the Security Council concerning the credentials of the representative of Iraq. At the 838th meeting on 7 August 1958, before the adoption of the agenda, the President (France), in welcoming Mr. Jawad as the representative of Iraq, drew the attention of the Council to the report.

The report of the Secretary-General referred to the cable,<sup>13</sup> dated 17 July 1958, which had been received from the Minister of Foreign Affairs in Baghdad informing him, *inter alia*, that the Government of Iraq considered all obligations arising from the Arab Union as null and void. In the report, the Secretary-General noted that he had been officially notified by the Government of Jordan that it considered the Constitution of the Arab Union in abeyance and inapplicable. Pursuant to rule 15 of the provisional rules of procedure, the Secretary-General referred to the letter,<sup>14</sup> dated 15 July 1958, from the Minister of Foreign Affairs of the Government of Iraq stating that Mr. Jawad had been appointed as the Iraqi representative in the Security Council. The Secretary-General stated that in his opinion the credentials of the representative of Iraq were in order.

The President further drew the attention of the Council to the letter,<sup>15</sup> dated 5 August 1958, from the Permanent Representative of Iraq to the Secretary-General informing him that the Hashemite Kingdom of Jordan had declared the termination of the Arab Union as from 1 August 1958, and that this had terminated his mission as the Permanent Representative of Iraq to the United Nations, accredited as such by the Government of the Arab Union.

At the 838th meeting on 7 August 1958, Mr. Jawad, the representative of the Republic of Iraq, took his seat on the Security Council.<sup>16</sup>

<sup>12</sup> S/4080.

<sup>13</sup> S/4060, para. 4.

<sup>14</sup> S/4060, para. 3.

<sup>15</sup> S/4081.

<sup>16</sup> 838th meeting (PV) : p. 2.

<sup>11</sup> For texts of relevant statements, see :

834th meeting (PV) ; President (Colombia), p. 21 ; Iraq, pp. 12-15 ; USSR, pp. 5-12, 16-21 ; United Kingdom, p. 11, Secretary-General, pp. 2-5, 16.

### Part III

#### PRESIDENCY (RULES 18-20)

##### NOTE

Part III of this chapter is confined to proceedings of the Council directly related to the office of the President. Material relevant to the exercise by the President of his functions under rules relating to other aspects of the practice of the Council will be found also in part V of the present chapter. The functions of the President in connexion with the agenda are dealt with in chapter II.

In connexion with rule 19 is presented an instance in

which the Council availed itself of the services of the President to examine with the parties concerned any proposals which, in his opinion, were likely to contribute to the settlement of a dispute (Case 7). The proceedings summarized in Case 8 relate to the temporary cession of the Chair under rule 20.

The six occasions on which the President has formulated the conclusions reached in the debate are dealt with in chapter VIII (part II, decisions of 25 October

1956, 27 April 1957, 21 and 28 May 1957, 21 February 1958 and 4 June 1958). In connexion with the summary by the President of views expressed at the 779th meeting on 21 May 1957, one member of the Council observed that the President had also summarized certain questions which had been raised by members of the Council. These, he said, reflected the views of individual delegations and not the opinion of the whole Security Council as an organ of the United Nations.

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

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

**a. Rule 19**

**CASE 7**

At the 768th meeting on 15 February 1957, in connexion with the India-Pakistan question, the representatives of Australia, Cuba, the United Kingdom and the United States submitted a joint draft resolution<sup>17</sup> requesting the President of the Security Council, the representative of Sweden, to visit India and Pakistan for the purpose of examining with the two Governments proposals which, in his opinion, were likely to contribute to the achievement of demilitarization or to the establishment of other conditions of progress towards the settlement of the dispute, having regard to previous resolutions of the Council and the United Nations Commission for India and Pakistan and bearing in mind the statements of the representatives of Pakistan and India and the proposal for the use of a temporary United Nations force, and to report to the Council not later than 15 April 1957.

The representative of the United Kingdom observed that the draft resolution provided for a procedure which would, he hoped, enable progress to be made, but not through the medium of public debate during the next few weeks. The President would undertake his task not as the representative of any country but would go with all the authority of the Security Council to make available to the parties his impartial judgement.

At the 769th meeting on 15 February 1957, the representative of France observed that the draft resolution was not in the nature of a substantive decision. It confined itself to prescribing a fact-finding measure and the Council would take no decision on the solution of the Kashmir problem until it had heard the report of its President. The final phrase of operative paragraph 1 was only an "indication".

At the 770th meeting on 18 February 1957, the representative of the USSR submitted amendments,<sup>18</sup> the purpose of which, he said, was to remove from the joint draft resolution provisions to which objection had been raised by one of the parties, but to retain the core of the proposal to send the President of the Council to India and Pakistan.

At the 771st meeting on 18 February 1957, the representative of Colombia, in connexion with the amendments<sup>19</sup> which he had submitted to the joint draft resolution, stated that the President of the Council should be free to examine all the suggestions which had thus far been made, but that the Council could not seek a legal as well as a political resolution at the same time.

At the 773rd meeting on 20 February 1957, the representative of the Philippines observed that, as far as the terms of reference of the President were concerned, it was desirable to mention what kind of proposals he was expected to take up with the Governments of India and Pakistan.

**Decision:** *At the 773rd meeting on 20 February 1957, the USSR amendments were rejected by 1 vote in favour, 2 against, with 8 abstentions. The Colombian amendment was rejected by 1 vote in favour, none against, with 10 abstentions. The joint draft resolution was not adopted. There were 9 votes in favour and 1 against, with 1 abstention (the negative vote being that of a permanent member).*<sup>20</sup>

At the same meeting, the representatives of Australia, the United Kingdom and the United States submitted a joint draft resolution<sup>21</sup> requesting the President of the Security Council, the representative of Sweden, to visit India and Pakistan for the purpose of examining with the two Governments any proposals which, in his opinion, were likely to contribute towards the settlement of the dispute, having regard to the previous resolutions of the Security Council and the United Nations Commission for India and Pakistan, and to report to the Council not later than 15 April 1957.

**Decision:** *At the 774th meeting on 21 February 1957, the joint draft resolution was adopted by 10 votes in favour to none against, with 1 abstention.*

At the same meeting, the President, having expressed his gratitude to the Council, observed that his acceptance of the mission was based on the express understanding that the two parties had declared themselves willing, in pursuance of operative paragraph 2 of the resolution, to co-operative with him in the performance of his functions, and that the result of his mission would largely depend upon the extent of that co-operation.<sup>22</sup>

<sup>17</sup> S/3791/Rev.1 and Corr.1, *O.R.*, 12th year, *Suppl. for Jan.-Mar. 1957*, pp. 8-9. See chapter VIII.

<sup>20</sup> 773rd meeting: paras. 124-126.

<sup>21</sup> S/3792 and Corr.1, 773rd meeting: para. 130.

<sup>22</sup> 774th meeting: para. 79.

<sup>23</sup> For texts of relevant statements, see:

768th meeting: China, paras. 125-126; United Kingdom, para. 20; United States, paras. 37-38; 769th meeting: India \*, para. 48; 770th meeting: Pakistan \*, paras. 129-130; USSR, paras. 143-146; 771st meeting: Colombia, paras. 6-7, 11; 773rd meeting: President (Sweden), para. 152; Philippines, para. 36; USSR, paras. 138-139; 774th meeting: President (Sweden), paras. 81-83; Australia, para. 96; Philippines, para. 93; United Kingdom, paras. 87-88; United States, paras. 90-91; United Nations Representative for India and Pakistan, paras. 83-85.

<sup>17</sup> S/3787, *O.R.*, 12th year, *Suppl. for Jan.-Mar. 1957*, pp. 7-8.

<sup>18</sup> S/3789, *O.R.*, 12th year, *Suppl. for Jan.-Mar. 1957*, p. 8.

On 29 April 1957, the representative of Sweden submitted to the Council, in pursuance of the resolution of 21 February 1957, his report<sup>24</sup> on the mission which he had undertaken as the representative of the Security Council to India and Pakistan. At the 791st meeting on 24 September 1957, the representative of Sweden stated that the submission of his report to the Council terminated his duties under the resolution of 21 February 1957.<sup>25</sup>

#### b. Rule 20

##### CASE 8

At the 814th meeting on 29 April 1958, in connexion with the letter<sup>26</sup> dated 18 April 1958 from the representative of the Union of Soviet Socialist Republics addressed to the President of the Security Council, the President (United States) called on the representative of the USSR on a point or order.

The representative of the USSR inquired whether the President intended to invoke the provisions of rule 20 of the rules of procedure of the Security Council. He stated that his inquiry was occasioned by the fact that at the last meeting of the Council it had been difficult to determine where the statements of the representative of the United States had ended and where the statements of the President of the Council had begun.

The representative of the United Kingdom observed that the question of the application of rule 20 was entirely a matter within the discretion of the President of the Security Council. Rule 20 permitted the President to vacate the Chair when he deemed that the proper fulfilment of the responsibilities of the Presidency required that he should not preside over the Council. He expressed full confidence in the President's ability to conduct the meeting with fairness and impartiality and expressed the hope that the President would not find it necessary to invoke rule 20.

The representatives of France and Panama, in support

<sup>24</sup> S/3821. *O.R.*, 12th year, *Suppl. for Apr.-June 1957*, pp. 12-16.

<sup>25</sup> 791st meeting: para. 8.

<sup>26</sup> S/3990, *O.R.*, 13th year, *Suppl. for Apr.-June 1958*, p. 8.

of the views expressed by the representative of the United Kingdom, maintained that the proceedings of the Council had been conducted in an impartial and regular manner.

The representative of the USSR observed that the question before the Security Council was directly connected with the member of the Council which the President represented. Therefore, his inquiry had been, quite legitimately, addressed to the President and not to the other members of the Council.

The President, after having quoted rule 20 of the provisional rules of procedure, observed:

"... In order to get at the spirit of the rule he has taken note that in parliamentary bodies within a national Government a member will disqualify himself if in his opinion the matter that confronts the body involves his personal interests. Transferring that line of thought to an international body like this, one would conclude that a representative of a Government should disqualify himself if the matter before the international body is one in which his Government has a selfish national interest. In my view that is not the case today. The proposal which is before us is one which involves immediately all the countries which are in the Arctic zone, and it involves only a little bit less immediately the whole world because it involves a question of war and peace."

He stated that the pending question did not involve a selfish national interest for any of the members of the Council, including the United States, and that, therefore, he did not deem it necessary to vacate the Chair.

The representative of the USSR replied that he took note of the President's ruling, although he could not agree with the interpretation which the President had given of rule 20 of the provisional rules of procedure. There was no reference in that rule to the selfish national interest of any State.

The President declared that the Council would proceed with discussion of the item on the agenda.<sup>27</sup>

<sup>27</sup> For texts of relevant statements, see:

814th meeting: President (United States), paras. 12-14; Panama, paras. 6-7; USSR, paras. 2-3, 10-11, 15; United Kingdom, paras. 4-5.

### Part IV

#### SECRETARIAT (RULES 21-26)

##### NOTE

Part IV relates to rules 21-26 of the provisional rules of procedure which delineate the more specific functions and powers of the Secretary-General in connexion with the meetings of the Council. Certain proceedings of the Council shed light on these functions of the Secretary-General in so far as they concern the requirements of the Security Council and are summarized here by virtue of their possible relationship to rule 21 and Article 98.

The proceedings summarized under rule 22 are so classified by virtue of the possible relation of that rule to Article 99 of the Charter.

The Security Council, within the period covered by this *Supplement*, has requested the Secretary-General to undertake a survey of aspects of the enforcement of and compliance with certain of its decisions; subsequently, it has asked him to "continue his good offices with the parties". The case histories listed under rule 23



report statements made by the Secretary-General in connexion with this mandate of investigation and report conferred upon him by the Council. Under rule 23 also will be found a note reflecting the participation of the Secretary-General in private proceedings of the Council.

Under rule 24, the Secretary-General has provided the required staff to service the meetings of the Council, as well as the commissions and subsidiary organs, both at Headquarters and in the field. At its 825th meeting on 11 June 1958, the Security Council, in deciding to dispatch urgently an observation group to proceed to Lebanon, authorized the Secretary-General "to take the necessary steps to that end" and asked the observation group to keep the Council "currently informed" through the Secretary-General.<sup>28</sup>

The proceedings referred to in Case 20 are included as of interest in connexion with the application of rule 26 which requires the Secretary-General to prepare documents for consideration by the Council and distribute them, except in urgent circumstances, at least forty-eight hours in advance of the meeting at which they are to be discussed.

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

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

##### **a. Rule 21**

##### **CASE 9**

At the 748th meeting on 30 October 1956, in connexion with the Palestine question, with special reference to steps for the immediate cessation of the military action of Israel in Egypt, the President (France) called upon the Secretary-General, who wished to make a statement.

The Secretary-General reported to the Council receipt of information from the Chief of Staff of the United Nations Truce Supervision Organization. Israel troops had crossed the international frontier and occupied positions in Sinai, in violation of the General Armistice Agreement and the Council's cease-fire order of 11 August 1949. The Chief of Staff had requested the withdrawal of the troops as soon as possible and a cease-fire to take effect at 12.00 local time on 3 October, in which the concurrence of Egypt had also been requested. On 29 October, a United Nations military observer and a radio officer had been expelled from El Auja; against this action the Chief of Staff had protested. The Chairman of the Egyptian-Israeli Mixed Armistice Commission had been informed that the demilitarized zone under Israel control had been mined, thus making impossible access to certain observation posts in the

<sup>28</sup> S/4023, O.R., 13th year, Suppl. for Apr.-June 1958, p. 47. See also chapter VIII under Complaint of Lebanon. For the Secretary-General's statements concerning the functions and duties of the observation group, see: 825th meeting: paras. 89-91; 827th meeting (PV): pp. 32-35; 828th meeting (PV): pp. 23-25; 829th meeting (PV): p. 2; 830th meeting (PV): pp. 22-25; 832nd meeting (PV): pp. 41-45; 834th meeting (PV): p. 16; 835th meeting (PV): pp. 21-30; 837th meeting (PV): pp. 11-12; 838th meeting (PV): p. 147.

area. The Secretary-General had no information concerning replies which might have been made by the Governments of Israel and Egypt. He reminded the Council that it had not been possible for the United Nations Truce Supervision Organization to investigate any of the incidents antecedent to the events of the previous day.<sup>29-31</sup>

##### **CASE 10**

At the 756th meeting on 12 December 1956, in connexion with the question of admission of new Members, the President (Peru) called upon the Secretary-General, who desired to make a statement.

The Secretary-General stated:<sup>32</sup>

"The representative of the Soviet Union referred to a request from the Government of Outer Mongolia to the Secretary-General that I should arrange for facilities for an observer at the United Nations. The observer arrangement here has no legal basis, nor does admittance of an observer have any legal consequences, for example, under the Headquarters Agreement. It is purely a question of protocol and it has to be resolved at the discretion of the Secretary-General. However, as a matter of course, I have established certain rules, which may be found satisfactory or unsatisfactory, but which I do not think it would be useful to discuss here and now. All I want to say is that these rules have been applied also in this case objectively and impartially."

##### **CASE 11**

At the 788th meeting on 6 September 1957, in connexion with the Palestine question, the representative of Iraq inquired of the Secretary-General as to the length of time which might be required by the Chief of Staff of the United Nations Truce Supervision Organization to submit a report on the Jordan complaint against Israel. The Secretary-General replied that a period of ten days or a fortnight would be sufficient and that, if the Council were to be on the safe side, it should decide on a fortnight.<sup>33</sup> It was so decided.<sup>34</sup>

##### **b. Rule 22**

##### **CASE 12**

At the 751st meeting on 31 October 1956, when the Council considered the letter dated 30 October 1956 from the representative of Egypt, the Secretary-General made the following statement:<sup>35</sup>

"Yesterday morning—on the basis of the information then available—I would have used my right to call for an immediate meeting of the Security Council, had not the United States Government in the course of the night taken the initiative.

<sup>29-31</sup> 748th meeting: paras. 13-19.

<sup>32</sup> 756th meeting: para. 81.

<sup>33</sup> For texts of relevant statements, see:

788th meeting: Iraq, para. 86; Secretary-General, para. 90.

<sup>34</sup> 788th meeting: para. 132.

<sup>35</sup> 751st meeting: paras. 1-5.

"Yesterday afternoon—on the basis of reports of the Anglo-French ultimatum to Egypt—I would have acted likewise, had not the substance of the matter already been under consideration as one new aspect of the item proposed by the United States.

"This morning, under my special mandate from the Security Council, which still is formally valid, I would have directed an appeal to the Governments of Israel and Egypt to the effect of the second draft resolution of yesterday, had not the most recent developments rendered my mandate and such an initiative pointless.

"This afternoon I wish to make the following declaration: The principles of the Charter are, by far, greater than the Organization in which they are embodied, and the aims which they are to safeguard are holier than the policies of any single nation or people. As a servant of the Organization, the Secretary-General has the duty to maintain his usefulness by avoiding public stands on conflicts between Member nations unless and until such an action might help to resolve the conflict. However, the discretion and impartiality thus imposed on the Secretary-General by the character of his immediate task may not degenerate into a policy of expediency. He must also be a servant of the principles of the Charter, and its aims must ultimately determine what for him is right and wrong. For that he must stand. A Secretary-General cannot serve on any other assumption than that—within the necessary limits of human frailty and honest differences of opinion—all Member nations honour their pledge to observe all Articles of the Charter. He should also be able to assume that those organs which are charged with the task of upholding the Charter will be in a position to fulfil their task.

"The bearing of what I have just said must be obvious to all without any elaboration from my side. Were the members to consider that another view of the duties of the Secretary-General than the one here stated would better serve the interests of the Organization, it is their obvious right to act accordingly."

The President (France) and the representatives of Australia, Iran, Peru, the USSR, the United Kingdom, the United States and Yugoslavia expressed their confidence in the Secretary-General and offered him the full support of their delegations.<sup>36</sup>

#### CASE 13

At the 754th meeting on 4 November 1956, in connexion with the letter dated 27 October 1956 from the representatives of France, the United Kingdom and the United States concerning the situation in Hungary, the Secretary-General made the following statement:<sup>37</sup>

<sup>36</sup> For texts of relevant statements, see:

751st meeting: President (France), para. 7; Australia, para. 134; Iran, para. 34; Peru, paras. 53-55; USSR, para. 8; United Kingdom, para. 36; United States, para. 6; Yugoslavia, para. 17.

<sup>37</sup> 754th meeting: para. 76.

"Last Wednesday [751st meeting] I had the honour to make before the Council the declaration concerning the views I hold on the duties of the Secretary-General and my understanding of the stands that he has to take. It is certainly not necessary, but all the same I would like to put on record that the observations I made on that occasion obviously apply also to the present situation."

#### CASE 14

At the 755th meeting on 5 November 1956, in connexion with the cablegram dated 5 November 1956 from the Minister of Foreign Affairs of the USSR concerning "Non-compliance by the United Kingdom, France and Israel with the decision of the emergency special session of the General Assembly of 2 November 1956 and immediate steps to halt the aggression of the aforesaid States against Egypt", the President (Iran) called upon the Secretary-General, who wished to make a statement.

The Secretary-General stated:

"...The Council will remember that under the resolution adopted by the General Assembly, I am authorized to pursue efforts in order to achieve a cease-fire. That is the point on which I feel that the Council would like to be informed.

"In replies received to the request for a cease-fire, effective 4 November at 2400, New York time, the Governments of France and the United Kingdom informed the Secretary-General that as soon as the Governments of Israel and Egypt signify acceptance of, and the United Nations endorses a plan for, an international force with the functions prescribed, the two Governments would cease all military action.

"By the adoption of the resolution [1000(ES-1)] of 5 November 1956, providing for the establishment of a United Nations Command, the United Nations General Assembly has taken the first decisive step in the implementation of its previous acceptance in principle of a United Nations Force to secure cessation of hostilities under all the terms established in the resolution [997(ES-1)] of 2 November on that subject.

"The Government of Egypt has, through a message which I received today, accepted the resolution of the General Assembly of 5 November, and may thus be considered as having accepted the establishment of an international force under the terms fixed by the United Nations. The Government of Egypt has further accepted yesterday the request of the Secretary-General for a cease-fire without any attached conditions. It is to be assumed that this acceptance, although referring to the time limits set in my request, is generally valid.

"Today I received from the Government of Israel, in clarification of its first reply to my request for a cease-fire, a statement to the effect that in the light of Egypt's declaration of willingness to cease fire, Israel wishes to confirm its readiness to agree to a cease-fire.

"The conditions for a general cease-fire would thus, it seems, depend on the possibility of an agreement concerning the plan for an international force. The Council is aware of the fact that by tomorrow, on the instructions of the General Assembly, I hope to be able to present such a plan, following up the first decision through which the United Nations Command was established. However, in view of the significance of this specific problem and the situation we are now facing in the cease-fire question and in view of the progress made, I felt that it was appropriate to seek with great urgency a further clarification in order to facilitate progress.

"I have in this situation also to mention that this afternoon I received a letter from the permanent representative of the United Kingdom which I have taken the liberty of having circulated to the members of the Security Council. There is one point in that letter which is in my view of special significance for the progress report I have taken the liberty of presenting. It is the following one: the representative of the United Kingdom states that orders have been given that all bombing should cease forthwith throughout Egypt."

The representative of the USSR pointed out that the question raised by his Government had not become less timely as a result of the explanations which had been given by the Secretary-General. He observed that the Secretary-General, in quoting a sentence from the letter of 5 November from the representative of the United Kingdom concerning the orders for the cessation of bombing throughout Egypt, had unfortunately not quoted the next sentence which read as follows:

"Any other form of air action as opposed to bombing will be confined to the support of any necessary operation in the Canal area."

This sentence obviously meant that certain operations would be carried out in the Canal area. It had been explained to the Council at previous meetings that these operations would receive aerial support, which could be given in the form of parachute troops or rocket missiles. The nature of the United Kingdom reservation with regard to military operations was such that the item which the Government of the USSR had requested the Council to place on its agenda was now just as timely as it had been before.

The Secretary-General replied:<sup>38</sup>

"... I am sure there is no misunderstanding between the representative of the Soviet Union and myself. I felt free to quote only one sentence, as I had given instructions that the letter should be on the table and could be read by all the members. My choice of facts, from the very rich story of this day, was based on my desire to register the points where progress had taken place."

<sup>38</sup> For texts of relevant statements, see: 755th meeting: USSR, paras. 12-13; Secretary-General, paras. 3-9, 19.

#### CASE 15

At the 815th meeting on 29 April 1958, in connexion with the letter<sup>39</sup> dated 18 April 1958 from the representative of the Union of Soviet Socialist Republics addressed to the President of the Security Council, the President (United States) called upon the Secretary-General.

The Secretary-General stated:<sup>40</sup>

"It is most unusual, as you know, for the Secretary-General to intervene in a debate of the Security Council. Indeed, it would be out of order and rightly criticized if such an intervention on his part would mean the taking of sides in a conflict before the Security Council.

"... on a previous occasion I have stated as my opinion that the Secretary-General has not only the right but the duty to intervene when he feels that he should do so in support of the purposes of this Organization and the principles laid down in the Charter. Of course, he cannot assume for himself any kind of right to, so to say, 'speak for man', but he must subordinate himself to his duty to express the significance of the aspirations of man, as set out in the Charter, for problems before this Council or the General Assembly.

"You may recall that some time ago, in a Press Conference, I found reason to welcome the decision of the Soviet Union to suspend unilaterally tests of atomic bombs. I did so solely on the basis of an evaluation of the possible impact of this move on the stalemate reached in the disarmament debate. In the same spirit and on the same basis, I wish today to welcome the initiative taken by the United States in presenting a proposal which might break up the stalemate from the angle of a limited system of inspection...

"...

"... I trust that my intervention will not be misinterpreted as a taking of sides, but merely as an expression of profound feelings which are current all over the world and which have a right to be heard here also outside the framework of Government policies.

"I hope that each one of the Governments represented around this table will wish to try out the line of trust as a way out of the disintegration and decline under which we now all suffer."

#### c. Rule 23

[Note: At the last of three private meetings (739th, 740th and 741st on 9, 11 and 12 October 1956), in connexion with the Suez Canal question, the Secretary-General made a statement on certain exploratory conversations of the Foreign Ministers of Egypt, France and the United Kingdom, parallel with the private meetings

<sup>39</sup> S/3990, O.R., 13th year, Suppl. for Apr.-June 1958, p. 8.

<sup>40</sup> 815th meeting: paras. 82-90.

of the Council, at which he had been present. At the next public meeting (742nd on 13 October 1956), a draft resolution presented by France and the United Kingdom referred in the preamble to the account given by the Secretary-General and the Foreign Ministers of the "development of the exploratory conversations" and, in the operative part, incorporated "certain basic requirements" which had appeared in the statement by the Secretary-General at the last private meeting.<sup>40a</sup> At the 743rd meeting on 13 October 1956, the Council adopted these parts of the joint draft resolution.<sup>40b</sup>

#### CASE 16

At the 722nd meeting on 4 April 1956, in connexion with the Palestine question, with special reference to the status of compliance given to the General Armistice Agreements and the resolutions of the Security Council adopted during the past year, after the Security Council had, by a unanimous decision, requested the Secretary-General to undertake a survey of the various aspects of enforcement of and compliance with the armistice agreements and three of the Council's resolutions, the President (United States) called on the Secretary-General, who desired to make a statement.

The Secretary-General stated: "41

"... The grave concern about the problems of the Middle East, which has been reflected in the debate, has prompted a unanimous decision of the Council. I share personally this concern and I feel that in the circumstances I should not hesitate to assume the responsibility which the Council has wished to put on my office. The scope of the Security Council's request is well indicated and it has been clarified further in the course of the debate. The specific responsibility which this request puts on the Secretary-General is entirely in line with the character and obligations of his office. It is obvious that this request neither detracts from nor adds to the authority of the Secretary-General under the Charter.

"I note that the Council wants me to explore

<sup>40a</sup> For texts of relevant statements, see :

742nd meeting: President (France), para 32; Egypt \*, paras. 42, 46; United Kingdom, paras. 13-15.

<sup>40b</sup> 743rd meeting: paras. 106-107; S/3675, *O.R.*, 11th year, *Suppl. for Oct.-Dec. 1956*, pp. 47-48. In the week following the consideration of the question by the Security Council and until 19 October 1956, the Secretary-General held a number of private discussions with the Foreign Minister of Egypt in order further to explore and clarify existing possibilities of finding a solution which would meet the basic requirements that had been approved by the Council. On 24 October 1956, the Secretary-General addressed a letter to the Foreign Minister of Egypt, setting forth his conclusions from the observations which had been made in the private talks. He also informed the Foreign Ministers of France and the United Kingdom. On 2 November, the Foreign Minister of Egypt replied. As this reply, together with the letter from the Secretary-General, seemed to the latter to represent a significant further development in the consideration of the matter as initiated by the Council, the Secretary-General circulated the two letters to the members of the Council on 2 November 1956. [S/3728, *O.R.*, 11th year, *Suppl. for Oct.-Dec. 1956*, pp. 120-124.]

<sup>41</sup> 722nd meeting: paras. 51-53.

possible ways of reducing tension along the demarcation lines. The extent to which such an exploration is possible and likely to yield lasting results depends necessarily on the willingness of all the parties concerned to co-operate fully with the Secretary-General in a joint effort inspired by mutual confidence. Assuming the task which the Council has desired me to assume, I trust that I can count on such collaboration.

"I also trust that all those who are interested in a successful outcome of the efforts, but who are not parties to the conflict, will assist the parties and me by restraint in word and action, as without this the difficulties would be unnecessarily increased."

#### CASE 17

At the 723rd meeting on 29 May 1956, in connexion with the report of the Secretary-General to the Security Council, pursuant to the Council's resolution of 4 April 1956 on the Palestine question, the President (Yugoslavia) called on the Secretary-General, who desired to make a statement.

The Secretary-General stated: "42

"... I wish first of all, on this occasion, to pay a tribute to the Governments of the five Member States, parties to the armistice agreements, for their unfailing co-operation with me as the agent of the Security Council. Fully recognizing the difficulties with which some of those Governments were and are faced, I appreciate their efforts to facilitate my task.

"In the conclusions to my report I have indicated my feeling that we are at present in a situation where we may break the previous chain of events..."

"I trust that all the parties will try to see what contributions they can now make unilaterally in order to re-establish and maintain the quiet and order so strongly needed as a background for successful efforts to cope with the great practical tasks to be tackled within all the countries concerned. Each step taken in the right direction may call forward similar steps from other sides, and this may start and give direction to a development bringing us further and further from the risk of conflict. There is wide scope for such related unilateral actions in the spirit of co-operation evidenced by the Member States in the course of my negotiations."

#### CASE 18

At the 728th meeting on 4 June 1956, in connexion with the Palestine question, after the Council had adopted a unanimous resolution<sup>43</sup> requesting the Secretary-General to continue his good offices with the parties, the President (Australia) called upon the Secretary-General to address the Council.

<sup>42</sup> 723rd meeting: paras. 9-11.

<sup>43</sup> S/3605, *O.R.*, 11th year, *Suppl. for Apr.-June 1956*, pp. 72-73.

The Secretary-General stated :<sup>44</sup>

"The mandate given to the Secretary-General by the Security Council in the resolution of 4 April 1956 is well known. There is certainly no reason for me to recapitulate the terms of reference. In the resolution passed by the Council this afternoon, the Council has requested me to continue my good offices with the parties in pursuance of the said resolution and with a view to the full implementation of the armistice agreements.

"I wish to say that it is with the best hopes that I shall try to meet this request of the Security Council. The decision of the Security Council gives me the privilege to continue in the spirit in which the work has been begun, thanks largely to the co-operative attitude of all the parties concerned. The analysis of the problems and the reactions to the difficulties and possibilities which I will take as the frame for my work are fully explained in my report to the Security Council on the first part of the Middle East assignment. The debate following the vote of the Council has highlighted points on which deep differences of view exist. It is my firm hope that neither these differences nor any of the expressions they have found here will be permitted to harm the effort on which the United Nations, in co-operation with the parties, has embarked."

#### CASE 19

At the 844th meeting on 15 December 1958, in connexion with the Palestine question with special reference to the letter dated 4 December 1958 from the permanent representative of Israel to the United Nations addressed to the President of the Security Council,<sup>45</sup> the President (Sweden) called upon the Secretary-General who made the following statement :<sup>46</sup>

"It has always been my firm view that no military action in contravention of the cease-fire clauses of the General Armistice Agreements, as reconfirmed in the undertakings of 1956, can be justified, even by prior military action from the other side, except in the case of obvious self-defence, in the most accurate sense of the word, and even then limited to what the actual defence need may reasonably be considered as having warranted ...

"...

"One matter is the consideration of the principles to be maintained and the judgements which they may call for in the case which is before the Council. Another matter, to which I as Secretary-General have to give most serious attention, is the underlying problems which have led to the present state of tension and to the use of force. Whatever these problems, if they are not considered as justifying the use of force, they call, on the other hand, for serious efforts toward a peaceful solution eliminating the cause of friction.

In my opinion, the Chief of Staff has already made commendable efforts to come to grips with those underlying problems. I am convinced that his continuing work in this direction has the fullest support of the Security Council. It is my hope that the parties, likewise, will co-operate with him fully, in a spirit of frankness and reconciliation and guided by the necessity to restore and maintain peaceful conditions.

"I am concerned about the deterioration in conditions around the Hulch region and the northern Demilitarized Zone which has taken place over the year and has led to serious incidents in November and December. I am even more concerned about symptoms indicating that the deterioration is continuing ...

"I wish to draw the attention of the Council to my plan to visit the countries concerned within the near future. It is my intention while there to take up the situation to which I have referred, for most serious consideration by the authorities of Israel and the United Arab Republic, in the hope of breaking the present trend and soliciting their full support for our efforts to attack the underlying problems which are at the source of the tension."

#### Rule 26

#### CASE 20

At the 811th meeting on 18 February 1958, in connexion with the Tunisian question (I), the representative of France observed that a document to which the representative of Tunisia had referred as an addendum to document S/3952 was not listed in the agenda adopted by the Council.

The President (USSR) explained that the document mentioned by the representative of Tunisia had appeared after the circulation of the provisional agenda. It was self-evident that during discussion of an agenda item, members of the Council and persons invited to participate in the debate were entitled to refer to all documents which had been submitted in connexion with the item on the agenda, related to it and had been circulated to the members of the Council.

The representative of France observed that he agreed with the President that all documents regularly submitted to the Council could be referred to in the course of a discussion. Under the rules of procedure, documents were considered to be regularly submitted, so far as the agenda was concerned, only if submitted three days before the meeting of the Council, while other documents, under rule 26, were required to be submitted forty-eight hours before the meeting at which they were to be considered. Consequently, the Council could not at that meeting discuss the documents under reference.<sup>47</sup>

The document was not referred to in the brief discussion which preceded adjournment.

<sup>44</sup> 728th meeting : paras. 159-160.

<sup>45</sup> S/4123.

<sup>46</sup> 844th meeting (PV) : pp. 2-10.

<sup>47</sup> For texts of relevant statements, see :

811th meeting : President (USSR), paras. 38, 40 ; France, paras. 36, 42 ; Tunisia, paras. 35, 39.

## Part V

## CONDUCT OF BUSINESS (RULES 27-36)

## NOTE

As previously in the *Repertoire*, the cases included in this part are less indicative of the routine practice of the Security Council than of special problems which have arisen in that practice; the cases assembled in this part relate to such matters as the following: decisions by the Council to depart from a rule; decisions on the conduct of business in situations not covered or not clearly covered by the rules; and instances where the meaning or applicability of the rules was in doubt. The cases, arranged in chronological order under the respective rules, bear on the following points.

## 1. Rule 27

The order of intervention in the debate (Case 21).

## 2. Rule 30

The submission of a point of order to the Council for decision without prior ruling by the President (Case 22).

## 3. Rule 32, para. 1

The order or precedence of voting on proposals (Case 23).

## 4. Rule 32, para. 2

(a) Requests for a separation of vote (Cases 24 and 25);

(b) The bearing of the application of rule 32, para. 2, on the vote on the whole (Case 26).

## 5. Rule 33, para. 1, sub-paras. 1-6

Motion to adjourn (Cases 27, 31 and 32).

Precedence of motion to refer a matter to a rapporteur (Case 33).

Effect of motion to postpone discussion indefinitely made before the adoption of the agenda (Case 29).

Motions to postpone discussion made after the adoption of the agenda (Cases 31 and 34).

One of the cases listed under rule 33 involved the question whether the Council could commit itself to conclude its discussion of an item by a fixed date (Case 28).

## 6. Rule 33, para. 2

Exclusion of debate after motion to postpone discussion (Case 30).

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

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

## a. Rule 27

## CASE 21

At the 753rd meeting on 3 November 1956, in connexion with the letter dated 27 October 1956 from the representatives of France, the United Kingdom and the United States concerning the situation in Hungary, the

representative of Yugoslavia, when beginning his statement to the Council, put a question to the representative of Hungary, who had been invited to participate in the discussion, and asked the President (Iran) to let him have an answer before continuing. The President observed that there were three speakers on his list whose consent he must obtain. Two of these having indicated that they preferred to keep their places on the speaker's list, the President called on the representative of Yugoslavia to continue his statement.<sup>48</sup>

## b. Rule 30

## CASE 22

At the 751st meeting on 31 October 1956, in connexion with the letter dated 30 October 1956 from the representative of Egypt, after the representative of Yugoslavia had submitted a draft resolution<sup>49-50</sup> to call an emergency special session of the General Assembly as provided in resolution 377A(V), the representative of the United Kingdom stated that the proposed procedure was out of order and not in accordance with the clear terms of the "Uniting for Peace" resolution. Addressing the President (France), he stated:

"... I feel that I must ask you to take a vote on my contention that the Yugoslav draft resolution is not in order. It is merely to save you embarrassment that I am not suggesting that you should make a ruling on the matter. Therefore I ask for a vote on my contention that the Yugoslav draft resolution is not in order."<sup>51</sup>

The motion of the representative of the United Kingdom was put to the vote and was rejected.<sup>52-53</sup>

## c. Rule 32

## CASE 23

At the 709th meeting on 22 December 1955, in connexion with the Palestine question, with particular reference to a complaint by Syria concerning incidents in the area east of Lake Tiberias, the representative of Syria\*, who had been invited by the Council to participate in the discussion, introduced a draft resolution.<sup>54</sup>

At the 710th meeting on 12 January 1956, the Security Council had before it a letter<sup>55</sup> dated 9 January

<sup>48</sup> For texts of relevant statements, see:

753rd meeting: President (Iran), paras. 24, 29, 31; Australia, para. 28; Belgium, para. 27; United Kingdom, para. 26; Yugoslavia, paras. 23, 30.

<sup>49-50</sup> S/3719, 751st meeting: para. 71.

<sup>51</sup> 751st meeting: paras. 81, 126.

<sup>52-53</sup> 751st meeting: para. 127.

<sup>54</sup> S/3519, O.R., 10th year, Suppl. for Oct.-Dec. 1955, pp. 41-42.

<sup>55</sup> S/3528, O.R., 11th year, Suppl. for Jan.-Mar. 1956, pp. 1-2.

1956 from the representative of the USSR requesting that the Syrian draft resolution be put to the vote with certain amendments proposed by the USSR. At the same meeting, the Council also had before it a joint draft resolution<sup>56</sup> submitted on 11 January 1956 by the representatives of France, the United Kingdom and the United States. The representative of the United Kingdom stated that he would request priority for the joint draft resolution when the time came for the Council to vote.

At the 714th meeting on 18 January 1956, the representative of Yugoslavia submitted a draft resolution.<sup>57</sup>

At the 715th meeting on 19 January 1956, the representative of the USSR stated that, in order to meet the desires of other delegations for a unanimous decision by the Council, he would not press to have priority given the Syrian draft resolution, as amended by the USSR, and would agree that the Yugoslav draft resolution have priority instead.

The President (Peru) observed that priority had also been requested for the three-Power draft resolution.

The representative of the USSR replied that the rules of procedure and the established practice of the Council required draft resolutions to be put to the vote in the order of submission; the Syrian and USSR draft resolution had been submitted before the three-Power draft resolution; there was no legal justification for voting on the three-Power resolution first.

The President declared that:

"...while we have a rule of priority by chronological order, we also have the established practice of the Council and of the General Assembly, under which, if priority is requested, the decision is left to the members' discretion. Therefore, as a request for priority has been made by the three Powers, I shall have to put that motion to the vote, so that the Council itself may decide whether it wishes to give priority to the draft resolution in question."

The representative of the USSR quoted the first paragraph of rule 32 to support the view that noting in the rules justified voting on motions and draft resolutions in any order other than that of their submission; "any other decision that might be adopted by a majority of the members of the Security Council would be contrary to the rules of procedure".

The President offered to treat the Soviet representative's objection as a challenge requiring decision by the Council, observing that

"... the rules of procedure are not exhaustive, and ... it is established practice—and indeed a general rule—for a body to be master of its own rules of procedure, which may be amended if a request to that effect is made in advance."

Following an indication from the representative of the USSR that his remarks had not been intended as a

challenge to the President's ruling,<sup>58</sup> the President put to the vote the proposal to give priority to the joint draft resolution.<sup>59</sup>

#### CASE 24

At the 715th meeting on 19 January 1956, in connexion with the Palestine question, when the Security Council was considering a joint draft resolution<sup>60</sup> submitted by the representatives of France, the United Kingdom and the United States, the representative of the USSR referred to the second paragraph of rule 32 of the rules of procedure and requested that a separate vote be taken on the fourth preambular paragraph of the joint draft resolution.

The representative of the United Kingdom, as the original mover of the joint draft resolution on behalf of the three sponsors, objected to the proposal of the representative of the USSR, and stated that under rule 32 he had the right to insist that the draft resolution be voted on as a whole.

The President (Peru) observed that, in application of rule 32 and in compliance with the request made on behalf of the three sponsors, he would put to the vote the draft resolution.<sup>61</sup>

The joint draft resolution was put to the vote as a whole.<sup>62</sup>

#### CASE 25

At the 722nd meeting on 4 April 1956, in connexion with the Palestine question, when the Security Council was considering a draft resolution submitted by the United States, the representative of the USSR requested a separate vote on the first three amendments proposed by his delegation and on the corresponding paragraphs of the draft resolution. Following the vote on the first amendment, the President (United States) announced that a vote would next be taken on the second amendment. In reply to the renewed request of the representative of the USSR for a separate vote on the corresponding paragraph of the draft resolution, the President declared that this would not be proper. The established procedure required a vote on the amendments first and then on the draft resolution. He added, citing rule 32, that the United States delegation objected to a separate vote.

<sup>58</sup> For texts of relevant statements, see:

709th meeting: Syria, para. 43;

710th meeting: United Kingdom, para. 48;

714th meeting: Yugoslavia, para. 29;

715th meeting: President (Peru), paras. 120, 123, 127-130; USSR, paras. 30, 121-122, 125-126; United Kingdom, para. 48.

<sup>59</sup> S/3530/Rev.3, 715th meeting: para. 141.

<sup>60</sup> S/3530/Rev.2, *O.R.*, 11th year, *Suppl. for Jan.-Mar. 1956*, pp. 3-4.

<sup>61</sup> For texts of relevant statements, see:

715th meeting: President (Peru), paras. 139, 141; USSR, paras. 137-138; United Kingdom, para. 140.

<sup>62</sup> 715th meeting: para. 141.

<sup>56</sup> S/3530, *O.R.*, 11th year, *Suppl. for Jan.-Mar. 1956*, pp. 2-3.

<sup>57</sup> S/3536, *O.R.*, 11th year, *Suppl. for Jan.-Mar. 1956*, pp. 4-5.

The representative of the USSR did not dispute the President's ruling.<sup>63</sup>

Following votes on the succeeding USSR amendments, the United States draft resolution was put to the vote as a whole.<sup>64</sup>

#### CASE 26

At the 749th meeting on 30 October 1956, in connexion with the Palestine question, with special reference to steps for the immediate cessation of the military action of Israel in Egypt, the representative of the United States pointed out that the draft resolution<sup>65</sup> which had been circulated by his delegation represented a unit in its entirety. He requested that the draft resolution be voted on as a whole under rule 32 of the rules of procedure.<sup>66</sup>

The representative of China observed that his delegation had difficulty with sub-paragraph *a* of paragraph 3. If the draft resolution were voted on as a whole, his vote in favour of it would not commit his Government on the sub-paragraph in question.

The draft resolution was put to the vote as a whole.<sup>67</sup>

#### d. Rule 33

#### CASE 27

At the 714th meeting on 18 January 1956, in connexion with the Palestine question, the representative of Iran suggested adjournment.

The representative of the USSR proposed adjournment until 3.00 p.m. the next day. The representative of the United States proposed a recess instead and resumption of the meeting at 8.00 or 8.30 the same evening.

The representative of Iran stated that, under the rules of procedure, the USSR proposal should be put to the vote.

The representative of Yugoslavia suggested, as a compromise, that the meeting be held at 10.30 a.m. the next day.

The President (Peru), after declaring that the rules of procedure made no provision for amendments in such cases, asked the representative of the USSR whether he would accept the Yugoslav amendment or wished his original proposal to be put to the vote.

The representative of the USSR replied that failing adoption of his proposal, he would be satisfied with convening the meeting at 10.30 a.m. the next day.<sup>68</sup>

<sup>63</sup> For texts of relevant statements, see :

722nd meeting : President (United States), paras. 39-40, 43 ; USSR, paras. 38, 41-42.

<sup>64</sup> 722nd meeting : para. 46.

<sup>65</sup> S/3710, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 110.

<sup>66</sup> For texts of relevant statements, see :

749th meeting : China, para. 136 ; United States, para. 124.

<sup>67</sup> 749th meeting : para. 186.

<sup>68</sup> For texts of relevant statements, see :

714th meeting : President (Peru), paras. 118, 120 ; France, para. 119 ; Iran, paras. 105, 112 ; USSR, paras. 107, 122 ; United States, paras. 110, 125 ; Yugoslavia, para. 117.

The USSR proposal and, then, the United States proposal were put to the vote and rejected.<sup>69</sup> The other proposals were not put to the vote and the President adjourned the meeting until 10.30 a.m. the following day.

#### CASE 28

At the 717th meeting on 26 March 1956, in connexion with the Palestine question, the representative of Iran proposed that the meeting be adjourned until Tuesday, 3 April, or Wednesday, 4 April, in order to afford all the parties directly concerned sufficient time to study the draft resolution under consideration by the Council. After some discussion, the representative of Iran, having withdrawn his original proposal, accepted the suggestion that the Council meet on Wednesday, 28 March, on the understanding that the debate would not be concluded until the following week.

The President (United Kingdom) observed :

"... I am bound to say from this Chair that no meeting of the Security Council can commit the next meeting, but, in the light of what I have said already by way of summing up, it does emerge with clarity, on the one hand, that we are unlikely to reach a conclusion next Wednesday but, on the other hand, that we are likely to advance the discussion by having a second meeting on Wednesday of this week.

"...

"The proposal before the Council, therefore, is the proposal by the representative of the United States that the Council should now adjourn and meet again next Wednesday, and I, from the Chair, will add at 3.30 p.m. on that day."

The representative of the USSR suggested an amendment to the summary statement of the President, that the Council decide to meet not only on Wednesday, 28 March, but also "on a day in the first half of next week".

The President replied :

"... I am not at all sure that it would be in order at a meeting today to decide beyond our next meeting... Equally I do not think it would be in order for me to accept an amendment to a summing up. Indeed I do not think it is necessary because I am certain that we can take a decision at this moment, namely, to adjourn the Council until Wednesday, 28 March, at 3.30 p.m. with the understanding that it will not be necessary for us to have another long debate on Wednesday in order to fix our next meeting and that the next meeting after that will be on Tuesday, 3 April. In other words, the decision now is that the Council is adjourned until Wednesday, 28 March, the sense of the meeting being that after that the Council will meet again on Tuesday, 3 April, to resume discussion of the question."<sup>70</sup>

<sup>69</sup> 714th meeting : paras. 123, 126.

<sup>70</sup> For texts of relevant statements, see : 717th meeting : President (United Kingdom), paras. 87, 89, 95 ; Iran, paras. 55-56, 77 ; USSR, para. 94.



## CASE 29

At the 729th meeting on 26 June 1956, when the provisional agenda included the letter dated 13 June 1956 from thirteen Member States concerning Algeria, the representative of the USSR moved, under rule 33 of the rules of procedure, to postpone discussion of the question indefinitely in view of its importance and the need for additional information.

The President (Australia) remarked that, under the rules of procedure of the Council, the first question would normally be the adoption of the agenda. Under rule 33, however, a proposal to postpone indefinitely discussion of the question took precedence over other motions. The Council should, therefore, deal first with the USSR proposal.

The representative of France maintained that adjournment could be requested only after a decision had been taken on the provisional agenda and asked that the Council take a vote on the proposal for adjournment. There could be no question of adjourning a meeting for which the agenda had not been adopted.

The representative of Belgium held that since inclusion of the question in the agenda and not its consideration was at issue, adjournment, on the basis of the arguments advanced by the representative of the USSR, could not properly be contemplated until the question had been placed on the agenda.

The representative of the USSR replied that the question before the Council was whether to adjourn indefinitely the meeting for which the provisional agenda had been proposed. Since rule 33 placed no limitations on the Council in this respect, the USSR proposal was in full conformity with that rule.

The representative of the United Kingdom interpreted the motion of the representative of the USSR to be a request for postponement of the meeting, not of the question. The phrase "postponement of the meeting" did not exist in the rules.

"...According to rule 33...we can suspend a meeting or we can adjourn a meeting, but I have found nothing there which entitles us to postpone a meeting. What we can do—and this is what the rule says—is postpone discussion of the question. But how can we postpone discussion of a question until we have decided to discuss it?

"...

"In my view, therefore, the right course would be to deal, as we normally do, with the first item on our agenda, which is the decision on whether we do or do not adopt our agenda."

The representative of Belgium requested an immediate vote on the USSR proposal.

The President observed:

"The Soviet proposal, as I understand it, is to postpone discussion of the question indefinitely. Since we have not yet adopted the agenda, the effect of this

proposal, if accepted, will be to adjourn the meeting."<sup>71</sup>

The USSR proposal was put to the vote.<sup>72</sup>

## CASE 30

At the 746th meeting on 28 October 1956, in connexion with the letter dated 27 October 1956, from the representatives of France, the United Kingdom and the United States concerning the situation in Hungary, the representative of the USSR, following adoption of the agenda, interrupted a statement by the representative of the United States on a point or order and proposed, under rule 33 of the rules of procedure, to postpone discussion of the question for three or four days, in order to enable the members of the Security Council to obtain the necessary information on the matter.

The President (France) declared that the representative of the USSR had requested an adjournment which, under rule 33, admitted of no debate.<sup>73</sup> Accordingly, he put the proposal of the representative of the USSR to the vote.<sup>74</sup>

## CASE 31

At the 747th meeting on 29 October 1956, in connexion with the letter dated 25 October 1956 from the representative of France, with complaint concerning military assistance rendered by the Egyptian Government to the rebels of Algeria, the President (France) suggested following adoption of the agenda that the meeting be adjourned in order to give the Egyptian delegation, which had just been invited to participate, time to make its preparation. It was so decided.<sup>75</sup>

## CASE 32

At the 753rd meeting on 3 November 1956, in connexion with the situation in Hungary, after the representative of Hungary\* had informed the Council that his Government and that of the Soviet Union were engaged in negotiations on the withdrawal of the Soviet troops from Hungary, the representative of Yugoslavia moved adjournment of the meeting of the Council to a later date in order not to impede the negotiations.

A discussion of the proposal to adjourn followed, during which various alternative proposals were made.

The President (Iran) observed that since there were no further speakers on his list for that meeting, it was automatically adjourned. The Council's task was not to

<sup>71</sup> For texts of relevant statements, see:

729th meeting: President (Australia), paras. 4, 26-27; Belgium, paras. 12, 22; France, paras. 5-8; Iran, para. 9; USSR, paras. 2-3, 14-15; United Kingdom, paras. 19-21.

<sup>72</sup> 729th meeting: para. 27.

<sup>73</sup> For texts of relevant statements, see:

746th meeting: President (France), paras. 47, 53; USSR, para. 48.

<sup>74</sup> 746th meeting: para. 53.

<sup>75</sup> 747th meeting: paras. 10-11.

take a decision on the Yugoslav motion or to discuss further the question of adjournment, but to set a date for its next meeting. He suggested Monday, 5 November, at 10.30 a.m. The representatives of China, Cuba and Peru supported the suggestion of the President.

The representative of Australia moved that the Council meet on 4 November, at 5.00 p.m., as originally proposed by the representative of Cuba.<sup>76</sup>

After further discussion, the proposal of the representative of Australia and, then, that of the President were put to the vote.<sup>77</sup>

#### CASE 33

At the 788th meeting on 6 September 1957,<sup>78</sup> in connexion with the Palestine question under which the agenda included as item (a) a complaint by Jordan, and as item (b) a complaint by Israel, the representative of Iraq, on a point or order, observed that it had been decided at the 787th meeting to consider the order of the debate after listening to the statements of the parties.

The President (Cuba) replied that unless other speakers wished to refer to such matters as postponement of the debate or requests for information concerning the items on the agenda, the question to be discussed by the Council was the order of priority of the items on the agenda.

The representative of the Philippines proposed that the Security Council obtain from the Acting Chief of Staff of the United Nations Truce Supervision Organization a report on the matters involved in the complaint of Jordan and a further report in connexion with the question raised by Israel.

Following discussion of the Philippine proposal, the President, in reply to a further observation from the representative of Iraq, declared that he had made no ruling on the point of order because the representative of the Philippines had proposed something for which provision was made in rule 33(4) of the rules of procedure, i.e., a request to a rapporteur, namely, the Chief of Staff, to submit two reports, a proposal which had found general support in the Council.

#### CASE 34

At the 790th meeting on 9 September 1957, in connexion with the question of admission of new Members, when the Security Council considered resolution 1017 B (XI) of the General Assembly and a joint draft reso-

<sup>76</sup> For texts of relevant statements, see :

753rd meeting : President (Iran), paras. 59, 67, 109, 134-135, 137, 140, 142, 146, 154 ; Australia, paras. 56, 85, 98, 127-128, 143, 152 ; Belgium, para. 115 ; China, para. 111 ; Cuba, paras. 102-103, 110 ; France, paras. 58, 130, 139, 153 ; Hungary \*, para. 62 ; Peru, paras. 95, 125 ; USSR, paras. 132-133 ; United Kingdom, paras. 87-88, 113, 144-145 ; United States, para. 107 ; Yugoslavia, paras. 33-35, 64, 66.

<sup>77</sup> 753rd meeting : paras. 147, 150.

<sup>78</sup> For texts of relevant statements, see :

788th meeting : President (Cuba), paras. 55 and 97 ; Iraq, paras. 51 and 82 ; Philippines, para. 59.

lution,<sup>79</sup> the representative of the USSR proposed to postpone consideration of the question until Viet-Nam had become unified in accordance with the decision of the Geneva Conference of 1954.<sup>80</sup> The President (Cuba) invited discussion of this proposal as having been made under rule 33(5). As there were no speakers, he put the USSR proposal to the vote.<sup>81</sup>

#### CASE 35

At the 813th meeting on 21 April 1958, in connexion with the letter<sup>82</sup> dated 18 April 1958 from the representative of the Union of Soviet Socialist Republics addressed to the President of the Security Council, after the President (United States) had proposed to put to the vote the USSR draft resolution, the representative of the USSR moved to adjourn the meeting until 22 April at 3.00 p.m.

The President, having inquired if there were any discussion on the USSR motion, put the question to the vote. The USSR motion was rejected by 2 votes in favour, 4 against, with 5 abstentions.<sup>83</sup>

The representative of the USSR observed :

"I do not quite understand the import of the vote which has just occurred. I think that if you as President had inquired, as is usually done, whether there are objections to this proposal, the answer would have been as unanimous as it was at the beginning ; nobody wanted to make any remarks. Obviously no one had any objections ; if anybody had had any objections he would have asked to speak. Thereupon, you put the motion to the vote in such a way that the result was a different one.

"I now make a new proposal, and that is that we adjourn this meeting and meet again at 10.30 tomorrow morning."

The President did not consider that his putting of the first USSR motion to the vote was at all unusual. He assumed that all the members understood exactly what they had voted on.

The representative of Canada, speaking on a point of order, stated that his delegation would vote against an adjournment if it were a question of pursuing the Soviet complaint which the Canadian delegation regarded as unfounded and not necessitating any further discussion. If, however, the proposal were to adjourn to discuss disarmament, that would raise another question.

The representative of the USSR stated that he had made the proposal to adjourn in order to have an opportunity to study the statements which had been made during the discussion of the item on the agenda.

<sup>79</sup> S 3881, O.R., 12th year, Suppl. for July-Sept. 1957, p. 34.

<sup>80</sup> For texts of relevant statements, see :

790th meeting : President (Cuba), para. 54 ; USSR, para. 45.

<sup>81</sup> 790th meeting : para. 55.

<sup>82</sup> S/3990, O.R., 13th year, Suppl. for Apr.-June 1958, p. 8.

<sup>83</sup> 813th meeting : para. 144.

He requested that the ordinary procedure which had always been observed in the Council should continue to be observed. He proposed to discuss at the next meeting the item which had already been listed on the agenda, and to adjourn the meeting, under rule 33, until 22 April at 10.30 a.m.

The representative of Colombia observed that the USSR motion for adjournment of the meeting would be contrary to the spirit invoked by the representative of the USSR, when, in his letter of submission to the Security Council, he referred to the primary responsibility of the Council for the maintenance of international peace and security.<sup>64</sup>

The President then put to the vote the USSR motion. The motion was rejected by 6 votes to 2, with 3 abstentions.<sup>65</sup>

<sup>64</sup> For texts of relevant statements, see :

813th meeting : President (United States), paras. 144, 148, 160 ; Canada, para. 150 ; Colombia, paras. 156-159 ; USSR, paras. 140, 145, 146.

<sup>65</sup> 813th meeting : para. 160.

### CASE 36

At the 821st meeting on 4 June 1958, in connexion with the complaints of Tunisia and France, the representative of France proposed to postpone the discussion of the question for a period of two weeks in order to allow direct conversations to proceed.

In response to an invitation from the President to comment, the representative of Tunisia\* stated that he had no objection, in principle, to the proposal made by the representative of France. He recalled that rule 33, paragraph 3, of the rules of procedure provided for the adjournment of meetings "to a certain day or hour". In order to have the decision conform with the rules of procedure, the Security Council should set the date for its next meeting. It would therefore be better to state that the discussion of the present item be adjourned until 18 June.<sup>66</sup>

It was so decided.<sup>67</sup>

<sup>66</sup> For texts of relevant statements, see :

821st meeting : President (China) ; para. 59 ; France : para. 51 ; Iraq : para. 53 ; Tunisia\* : paras. 56-57.

<sup>67</sup> 821st meeting : para. 62.

## Part VI

### \*\*VOTING (RULE 40)

## Part VII

### LANGUAGES (RULES 41-47)

#### NOTE

During the period under review, rules 42-43 regarding interpretation into the two working languages (English, French) have been applied on all occasions except two when consecutive interpretation was waived, as an exceptional measure, in order to expedite discussion or to lighten the heavy work schedule at the time. In the proceedings reported in Case 38, there was some discussion as to the purpose of consecutive interpretation.

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

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

##### Rules 42-43

##### CASE 37

At the 752nd meeting on 2 November 1956, in connexion with the situation in Hungary, the President (Iran) stated that if the speakers whose names were on his list would agree to waive consecutive interpretation of their statements, the Council could avoid holding another meeting that evening. He noted that the suggested procedure was exceptional and would not constitute a precedent. The debate would not be con-

sidered exhausted and other representatives who wished to speak could do so at the next meeting.

The representatives of China, France and Peru signified their agreement with the suggestion of the President, and it was so decided.<sup>68</sup>

### CASE 38

At the 768th meeting on 15 February 1957, in connexion with the India-Pakistan question, the President (Sweden) suggested that because the General Assembly and other organs of the United Nations had a very heavy schedule before them, the Security Council should, as an exceptional measure, dispense with consecutive interpretation of the statements which were to be made. The Council would return to its normal procedure when it began to consider the draft resolution before it.

The representative of the USSR had no objection to the President's suggestion in the circumstances, but disliked the fact that this exception had become a regular practice in the work of the Council. The rules

<sup>68</sup> For texts of relevant statements, see :

752nd meeting : President (Iran), paras. 102, 102-a, 104 ; China, para. 102-c ; France, paras. 102-b, 104-a.

of procedure required the Council to work unhurriedly, so that members could ponder everything that was said. The procedure of consecutive interpretation had been established for that reason. Exceptions to that procedure should be less frequent in the future.

The representative of France associated himself with the views expressed by the representative of the USSR.<sup>89</sup>

The President reiterated the exceptional character of

the departure from the rule and stated that, if there were no objections to his suggestion, he would consider it adopted. It was so decided.<sup>90</sup>

<sup>89</sup> For texts of relevant statements, see :

768th meeting : President (Sweden), paras. 41-42 ; France, para. 46 ; USSR, paras. 43-44.

<sup>90</sup> 768th meeting : para. 47.

## Part VIII

### PUBLICITY OF MEETINGS, RECORDS (RULES 48-57)

#### NOTE

In accordance with rule 49, the verbatim records of each meeting are made available in the working languages (English and French) to the representatives on the Council, as well as to the representatives of any other States which have participated in the meeting. In mimeographed copies of the record is incorporated a note showing the time and date of distribution. Corrections are requested in writing, in duplicate, within two working days, to be submitted in one of the two working languages, preferably in the same language as the text to which they refer. These corrections are included, in the absence of any objection, in the Official Record of the meeting which is printed and distributed as soon as possible after the time limit for correction. During the period under review, the Security Council held six private meetings ; at the close of each it issued a communiqué through the Secretary-General in accordance with rule 55 of the provisional rules of procedure. On two occasions, the Security Council acceded to requests to publish as annexes to the record of a meeting of the Council certain documents which had been referred to but not read in their entirety in the course of a statement by an invited representative. In the first of those proceedings,<sup>91</sup> the Council on the request of the invited representative decided that the documents should be printed as part of his statement. In the other instance,<sup>92</sup> it was decided only that the documents should be annexed to the record of the meeting without being included as part of the statement of the invited representative.

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

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

##### Rules 48-55

##### CASE 39

At the 735th meeting on 5 October 1956, when the Security Council considered complaints submitted by

<sup>91</sup> Case 40.

<sup>92</sup> Case 41.

France and the United Kingdom against Egypt, and by Egypt against France and the United Kingdom, the representative of the United Kingdom suggested that, after there had been an opportunity for those who wished to state their views in public session, the Council should move into private session in order to explore the possibility of a peaceful solution of the problem.

At the 737th and 738th meetings on 8 and 9 October 1956, the representatives of Australia, France, Iran, Peru, the United States and Yugoslavia supported the suggestion made by the representative of the United Kingdom.<sup>93</sup>

The 739th to 741st meetings, between 9 and 12 October 1956, were held in private. In accordance with rule 55 of the provisional rules of procedure, the Council issued a communiqué at the close of each private meeting.

#### CASE 40

At the 761st meeting on 16 January 1957, in connexion with the India-Pakistan question, the representative of Pakistan\*, who had been invited to participate in the discussion, requested that the Security Council print the texts of some letters to which he referred, as well as other documents, as annexes to his statement before the Council.<sup>94</sup>

**Decision :** *Upon the proposal of the President (Philippines), the Council decided, without objection, to publish the documents as part of the statement of the representative of Pakistan\*, as annexes to the record of the meeting.*<sup>95</sup>

<sup>93</sup> For texts of relevant statements, see :

735th meeting : President (France), para. 100 ; United Kingdom, paras. 94-95 ; United States, para. 160.

737th meeting : Australia, para. 84 ; Iran, para. 58 ; Peru, para. 33.

738th meeting : Yugoslavia, para. 26.

<sup>94</sup> For texts of relevant statements, see :

761st meeting : President (Philippines), paras. 94-95 ; Pakistan\*, para. 96.

<sup>95</sup> 761st meeting : para. 97.

## CASE 41

At the 762nd meeting on 23 January 1957, in connexion with the India-Pakistan question, the representative of India\*, who had been invited to participate in the discussion, stated that at some stage he would ask that certain documents to which he was making reference be circulated as United Nations documents.

The President (Philippines) took the request of the representative of India to mean that he wished the documents to be made part of his statement, and, in view of the bulk of the documents, he consulted the Council on the question whether this should be done.

The representative of India\* expressed the hope that the documents would be published not as part of his statement before the Council, but as United Nations documents.

The representative of the United States observed:

"In the more than four years during which I have been here I have only once seen material incorporated as part of a speaker's statement when he did not actually make the remarks himself. That was last

week, in connexion with the speech of the representative of Pakistan, and if the representative of India asks for the same privilege today I would certainly be willing to grant it to him. However, I do not think that we ought to do it again. I feel that it is a very bad practice to have the record appear as if a representative said something when in fact he did not. I hope, therefore, that we shall be very careful about this, because if we adopt it as a custom it can lead to tremendous abuses, and also to very considerable expense."<sup>96</sup>

**Decision:** *Upon the proposal of the President (Philippines), the Council decided, without objection, to publish the documents as an annex to the statement of the representative of India, and not as part of his statement.*<sup>97</sup>

<sup>96</sup> For texts of relevant statements, see:

762nd meeting: President (Philippines), paras. 28, 30-31; Cuba, para. 37; India\*, paras. 27, 34; United Kingdom, para. 32; United States, paras. 35-36.

<sup>97</sup> 762nd meeting: para. 38.

## Part IX

**\*\*APPENDIX TO PROVISIONAL RULES OF PROCEDURE**

## **Chapter II**

### **AGENDA**

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## INTRODUCTORY NOTE

The present chapter contains material concerning rules 7, 9, 10 and 11 of the provisional rules of procedure of the Security Council. No material requiring treatment under rules 6 and 8 has been found for the period under review.

As in the previous volumes of the *Repertoire*, the material in the present chapter is presented directly under the rule of procedure to which it relates. The chapter is divided into four parts: part I, Consideration of the adoption or amendment of rules 6-12; part II, The Provisional Agenda; part III, Adoption of the Agenda (rule 9); and part IV, The Agenda: Matters of which the Security Council is seized (Rules 10 and 11).

No material has been entered under part I, since the Council has not had occasion to consider any change in rules 6 to 12.

Part II provides information concerning the preparation of the provisional agenda (rule 7).

Part III contains material on the procedure and

practice of the Security Council in connexion with the adoption of the agenda. Section A includes a list of votes taken in adopting the agenda arranged by forms of proposals voted upon. This list is followed by two case histories summarizing the discussion in the Council concerning a procedural aspect of the adoption of the agenda. Section B presents case histories setting forth discussion in the Council of the requirements for the inclusion of an item in the agenda and of the effects of such inclusion. Section C covers other questions which have been discussed in connexion with the adoption of the agenda, such as the order of discussion of items and the scope of items in relation to the scope of the discussion.

Part IV relates to the list of matters of which the Security Council is seized. The tabulation in Section B (rule 11) brings up to date the tabulations in the previous volumes of the *Repertoire* and includes items which have appeared in the Secretary-General's Summary Statement on matters of which the Security Council is seized during the period 1956 to 1958 inclusive.

### Part I

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

### Part II

#### THE PROVISIONAL AGENDA

##### NOTE

The provisional agenda of each meeting is drawn up by the Secretary-General and approved by the President of the Security Council in accordance with rule 7. The inclusion of new items in the provisional agenda is confined to those items which have been brought to the attention of the Security Council by the Secretary-General under rule 6. The proceedings in connexion with a proposal to include a new item in the provisional agenda are included under rule 7 (Case 1).

The order of items appearing on the provisional agenda, other than the first item relating to adoption, usually reflects the stage of consideration reached at the previous meeting and the urgency of new communications. These items are generally described either by the title of the relevant document used as a heading or a sub-heading, or by a title which has been specifically requested or previously approved by the Council. The order of items on the provisional agenda and their wording may not coincide with the order and wording of the items in the agenda as adopted, for these are matters which are subject to the final approval of

the Security Council. Proceedings related to the order of discussion are included in part III, C (Cases 14, 15 and 16).

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

##### B. RULE 7: PREPARATION OF THE PROVISIONAL AGENDA

###### CASE 1

At the 749th meeting on 30 October 1956, when the Council considered the letter<sup>1</sup> dated 29 October 1956 from the representative of the United States concerning the Palestine question, with special reference to steps for the immediate cessation of the military action of Israel in Egypt, the representative of Iran proposed to include in the provisional agenda for the next meeting, as an additional item, the letter<sup>2</sup> dated 30 October 1956 from the representative of Egypt. This proposal was

<sup>1</sup> S/3706, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 108.

<sup>2</sup> S/3712, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 111-112.



supported by the representatives of the USSR and Yugoslavia.

The President (France) stated that, in the absence of any objection, the letter from the Egyptian delegation would appear on the provisional agenda of the next meeting of the Council.<sup>3</sup>

<sup>3</sup> For texts of relevant statements, see :

749th meeting : President (France), para. 207 ; Iran, para. 204 ; USSR, para. 206 ; Yugoslavia, para. 205.

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

[Note : Questions have arisen in the Council during the period under review concerning meetings summoned as a matter of urgency. Discussion has turned on the justification for departure from the practice of consulting members of the Council beforehand and is described in chapter 1 (Cases 2 and 3).]

## Part III

### ADOPTION OF THE AGENDA (RULE 9)

#### NOTE

The first item of the provisional agenda for each meeting of the Security Council, under rule 9, is the adoption of the agenda. The usual practice of the Council is to adopt the provisional agenda without vote, either with or without amendments, unless an objection has been raised.<sup>4</sup> Part III is concerned with the proceedings of the Council in those instances where an objection has been raised to the adoption of the agenda.

Section A, dealing with the manner in which the Council has taken decisions on the objections raised, has been presented in tabular form. The section also includes two case histories (Cases 2 and 3) of discussion in the Council on the procedure of voting on the adoption of the agenda. One of these (Case 3) concerns an occasion when the Council voted on the provisional agenda after a member had suggested that, in view of the importance of the question, a formal vote should be taken even if there were no express objections to the adoption of the agenda.

Section B presents case histories of the discussion in the Council when objection had been raised on grounds related to the substance of the item on the provisional agenda. The case histories are related to the procedural aspects of such discussion at the stage of the adoption of the agenda. They are not concerned with the grounds of objection which, except for the proceedings of the 783rd and 784th meetings (Case 11), are more fully presented in chapters X and XII. As previously in the *Repertoire*, material from the same episode in the practice of the Council is entered under one or the other sub-heading in section B, but the eventual decision of the Council is recorded only once.

<sup>4</sup> Meetings of the Council on a question held in the morning and afternoon of the same day have been considered to be separate meetings, but the Council may dispense with the formality of adopting the same agenda twice on the same day. See *Repertoire of the Practice of the Security Council 1946-1951*, p. 68. On one occasion during the period under review, the Council, at two meetings (746th and 752nd) on a question, voted to adopt the provisional agenda over the objections of a member. At subsequent meetings (753rd and 754th) on the same question the Council adopted the agenda without vote, the President declaring the agenda adopted with the understanding that note would be taken of the objections raised by the member when the agenda was first adopted (Case 7).

Section C deals with other questions related to the adoption of the agenda, such as the order and latitude of discussion of items.

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

##### 1. Votes taken concerning individual items in the provisional agenda

When objection has been raised to the inclusion in the agenda of an item on the provisional agenda, the vote has been taken in one of two ways.

##### (i) On the proposal to include the item in the agenda

734th meeting, 26 September 1956 : item 3 : voted upon at the same meeting.<sup>5</sup>

750th meeting, 30 October 1956 ; item 3 : voted upon at the same meeting.<sup>6</sup>

842nd meeting, 9 December 1958 ; item 2 (b) and 2 (c) : voted upon at the same meeting.<sup>7</sup>

##### (ii) On the adoption of the agenda as a whole and not on the individual item

730th meeting, 26 June 1956 ; objection to item 2.<sup>8</sup>

746th meeting, 28 October 1956 ; objection to item 2.<sup>9</sup>

752nd meeting, 2 November 1956 ; objection to item 2.<sup>10</sup>

754th meeting, 4 November 1956 ; objection to item 2.<sup>11</sup>

778th meeting, 20 May 1957 ; objection to item 2.<sup>12</sup>

784th meeting, 20 August 1957 ; objection to item 2.<sup>13</sup>

<sup>5</sup> 734th meeting : para. 123.

<sup>6</sup> 750th meeting : para. 9.

<sup>7</sup> 842nd meeting (PV) : p. 8.

<sup>8</sup> 730th meeting : para. 85.

<sup>9</sup> 746th meeting : para. 35.

<sup>10</sup> 752nd meeting : para. 6.

<sup>11</sup> 754th meeting : para. 1.

<sup>12</sup> 778th meeting : para. 14.

<sup>13</sup> 784th meeting : para. 87.

In the instances under (i) above, the agenda was adopted without vote after the vote on the individual item. In the cases under (ii), the vote was taken directly on the adoption of the agenda as a whole on each occasion. There was no instance in which a proposal was made to include the item in the agenda and postpone its consideration.

In other instances, the vote has been taken as follows:

2. *Votes taken on proposals to determine or change the order of items*

787th meeting, 6 September 1957.

3. *Votes taken on the adoption of the agenda as a whole*

755th meeting, 5 November 1956.<sup>14</sup>

#### CASE 2

At the 734th meeting on 26 September 1956, the provisional agenda contained, as item 2, "Situation created by the unilateral action of the Egyptian Government in bringing to an end the system of international operation of the Suez Canal, which was confirmed and completed by the Suez Canal Convention of 1888",<sup>15</sup> submitted by France and the United Kingdom; and, as item 3, "Actions against Egypt by some Powers, particularly France and the United Kingdom, which constitute a danger to international peace and security and are serious violations of the Charter of the United Nations",<sup>17</sup> submitted by Egypt.

The representative of Australia stated that his delegation considered that the formulation of the problem proposed by France and the United Kingdom indicated a proper perspective of the situation in respect to the Suez Canal, whereas the formulation presented by Egypt did not. It was unnecessary to include the third item, for the Egyptian Government would be given every opportunity to express its views in the course of the Council's consideration of the item proposed by France and the United Kingdom. He requested that separate votes be taken on the two items proposed for the agenda.

The President (Cuba) declared that, in accordance with the Australian proposal, the Council would take separate votes on items 2 and 3 of the provisional agenda.<sup>16</sup>

**Decision:** *The proposal to include item 2 in the agenda was adopted unanimously. The proposal to include item 3 was adopted by 7 votes in favour to none against, with 4 abstentions. The agenda was adopted.*<sup>18</sup>

<sup>14</sup> 787th meeting: para. 27.

<sup>15</sup> 755th meeting: para. 27.

<sup>16</sup> S/3654, O.R., 11th year, Suppl. for July-Sept. 1956, p. 47.

<sup>17</sup> S/3656, O.R., 11th year, Suppl. for July-Sept. 1956, p. 48.

<sup>18</sup> For texts of relevant statements, see:

734th meeting: President (Cuba), paras. 121-123; Australia, paras. 87, 94-95.

<sup>19</sup> 734th meeting: para. 123.

#### CASE 3

At the 755th meeting on 5 November 1956, the provisional agenda included, as item 2, a cablegram<sup>20</sup> dated 5 November 1956 from the Minister of Foreign Affairs of the Soviet Union concerning "Non-compliance by the United Kingdom, France and Israel with the decision of the emergency special session of the General Assembly of 2 November 1956 and immediate steps to halt the aggression of the aforesaid States against Egypt".

The representative of Belgium, after having observed that, in view of the importance of the question before the Council, the adoption of the agenda should be put to a formal vote even if there were no express objections to its adoption, called for a vote on the agenda.<sup>21</sup>

**Decision:** *The Council rejected the provisional agenda by 3 votes in favour to 4 against, with 4 abstentions.*<sup>22</sup>

#### CASE 4

At the 787th meeting on 6 September 1957, the provisional agenda included under item 2, the Palestine question, the sub-items: (a) letter<sup>23</sup> dated 4 September 1957 from the permanent representative of Jordan; and (b) letter<sup>24</sup> dated 5 September 1957 from the acting permanent representative of Israel.

The representative of Iraq inquired whether the Council would first take up sub-item (a) and then proceed with sub-item (b).

The President (Cuba) replied:

"It is, of course, for the Council to take a decision on this point. As President, however, I felt that, since these two questions were so closely connected, they could be discussed jointly. I believe that this procedure would facilitate the work of the Council and enable it to resolve the matter..."

The representative of the USSR observed:

"The first document referred to in the provisional agenda... was received yesterday, and this allowed time for us to study the document and to form our opinion upon it. The letter from the representative of Israel... has appeared only today on the Council table. Hence, the Soviet delegation has not been able to study it prior to coming to this meeting... If the letter were merely a reply or a statement of the position of Israel in connexion with the question raised by Jordan, that would be a different matter, but in it the representative of Israel requests the Council to discuss a different question from that raised by Jordan. That is why the Soviet delegation

<sup>20</sup> S/3736, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 128-130.

<sup>21</sup> 755th meeting: paras. 22-23, 26.

<sup>22</sup> 755th meeting: para. 27.

<sup>23</sup> S/3878, O.R., 12th year, Suppl. for July-Sept. 1957, pp. 33-34.

<sup>24</sup> S/3883, O.R., 12th year, Suppl. for July-Sept. 1957, pp. 33-34.

finds itself in a difficult position as regards taking a decision as to whether this letter should be considered at today's meeting of the Council."

He believed, therefore, that the Council should adopt the provisional agenda and discuss the sub-items consecutively.

The representative of Iraq expressed views similar to those of the representative of the USSR.

The representative of the United States, in support of the suggestion made by the President, observed that there was ample precedent for the Council to discuss the two sub-items simultaneously. However, in order to avoid a procedural debate which would delay and complicate the consideration of the matter, his delegation would be willing to take up these questions either simultaneously or consecutively.

The representative of the United Kingdom stated that the Council, by adopting its agenda, would not necessarily make a prejudgement on how it intended to deal with the items. However, the Council could not proceed to deal with any item until it had adopted its agenda, since the first item before the Council was always the adoption of the agenda. He added:

"... I should like to remind my colleagues that we have had this kind of problem before in connexion with Palestine questions—that is to say, the problem of an item put down by one party which is then followed by an item put down by another party. I should like to refer to what happened in May 1954, when we had the same problem. After a very long procedural debate, which I hope we may be able to avoid on this occasion, the decision reached was the following:

"1. The provisional agenda is adopted.

"2. A general discussion shall be held in which reference may be made to any or all of the items of the agenda.

"3. The Security Council does not commit itself at this stage as to the separate or joint character of its eventual resolution or resolutions." (670th meeting, para. 2).

"I would suggest that we might usefully follow the same procedure on the present occasion."

The President observed:

"... Our practice has been first to adopt the agenda so that it becomes a definite and not a provisional agenda and then to agree as to how the items on it should be discussed, whether concurrently, whether separately, whether the meeting should be adjourned etc. However, if the Council wishes to adopt the agenda with the prior condition set forth by the representative of the Soviet Union that after adopting the agenda sub-paragraphs (a) and (b) will be discussed separately the Council can certainly do so."

After the representative of the USSR had indicated that he had not intended to pose his suggestion as a "condition", the representatives of Australia and China

stated that the question of the order of debate should be taken up after the adoption of the agenda.

The President stated that the Council would first vote on the adoption of the agenda, and then consider whether the sub-items should be discussed separately or jointly.<sup>25</sup>

**Decision:** *The agenda was adopted unanimously.*<sup>26</sup>

## B. CONSIDERATION OF:

### 1. Requirements for the inclusion of an item in the agenda

#### CASE 5

At the 729th and 730th meetings on 26 June 1956, the Council had on its provisional agenda a letter<sup>27</sup> dated 13 June 1956 from the representatives of thirteen Member States requesting the Council, under Article 35 (1), to consider the situation in Algeria.

The representative of France objected to the inclusion of the item in the agenda on the ground of Article 2 (7), since the French Government considered that Algerian affairs were essentially within the domestic jurisdiction of France. In his view, the recognition of the right of the United Nations to intervene in the internal affairs of a State would establish a dangerous precedent and would mean the end of the United Nations. Article 34 was not applicable to the situation in Algeria, for under that Article the Council's competence was limited to disputes or situations of an international character. Furthermore, the competence of the Council did not extend to questions related to violation of fundamental human rights or the denial of the right of self-determination.

The representative of Iran stated that the situation in Algeria was of the kind envisaged by Articles 34 and 35 of the Charter. Stressing the number and importance of the Member States which had submitted the question to the Security Council, he declared that the question should be inscribed in the agenda so as to give those Member States an opportunity to express their views and in order to determine, under Article 34, if the continuance of the situation threatened the maintenance of international peace and security. The argument based on Article 2 (7) was unfounded, for a question bearing on the violation of human rights was not a matter essentially within domestic jurisdiction of a State. The United Nations had declared itself competent on the question of the treatment of persons of Indian origin in the Union of South Africa, the Indonesian question and the Czechoslovak question. The Security Council had

<sup>25</sup> For texts of relevant statements, see:

787th meeting: President (Cuba), paras. 3, 12, 19-20, 23-24, 27; Australia, para. 26; China, para. 25; Iraq, para. 8; USSR, paras. 13-16, 18, 21-22; United Kingdom, paras. 10-11; United States, para. 6.

<sup>26</sup> 787th meeting: para. 27.

<sup>27</sup> S/3609, O.R., 11th year, Suppl. for Apr.-June 1956, pp. 74-76. The signatories were Afghanistan, Egypt, Indonesia, Iran, Iraq, Jordan, Lebanon, Libya, Pakistan, Saudi Arabia, Syria, Thailand and Yemen.

followed from the beginning a liberal policy with respect to inclusion of items in the agenda, a policy which had been supported in the past by certain delegations at present opposed to the consideration of the Algerian question. When there had been doubt as to the inclusion of an item, the Council had given the benefit of that doubt to the party requesting the inclusion. In numerous instances the Security Council had included items in the agenda, while stressing the fact that in so doing it was in no way prejudging its competence or the substance of the question.

The representative of China stated that any action by the Council under Articles 34 and 35, to be fruitful, had to have the willing co-operation of France. He, as well as the representatives of Peru, the United States and Yugoslavia, maintained that under the circumstances the inclusion of the item in the agenda would not achieve any practical results. The representative of Cuba believed that it would be dangerous for the Council to intervene in questions within the domestic jurisdiction of a State.

The representative of the United Kingdom observed that one of the cardinal principles of the United Nations was not to intervene in the domestic affairs of its Members, and that a number of founder nations, without whose co-operation the Organization could hardly have been brought into being, would have hesitated to lend their efforts to that great enterprise unless they had known that the Charter enshrined this cardinal principle. Aside from the conclusive legal arguments against the inclusion of the item in the agenda, a debate in the Council on the question of Algeria would hamper a peaceful solution of the problem.

The representative of Belgium maintained that the prohibition contained in Article 2(7) was of a categorical and general character. It applied to all provisions of the Charter, including those bearing on human rights and specifically on the right of peoples to self-determination. Furthermore, the practice of placing a matter on the agenda to offer an opportunity of elucidating the question of competence was advisable when that question had not been discussed; in the Algerian matter, however, the question of competence had been the subject of previous lengthy discussion.<sup>28</sup>

**Decision:** At the 730th meeting on 26 June 1956, the Council rejected the provisional agenda by 2 votes in favour and 7 against, with 2 abstentions.<sup>29</sup>

#### CASE 6

At the 734th meeting on 26 September 1956, the provisional agenda included, as item 2, "Situation

<sup>28</sup> For texts of relevant statements, see :

729th meeting: France, paras. 29, 97, 100-104; Iran, paras. 30, 48, 50-54, 71, 75-92;

730th meeting: Belgium, paras. 60-61; 66-68; China, paras. 32-34; Cuba, paras. 35-42; Iran, paras. 3, 8-9, 13-17; 23-28; Peru, paras. 46-49; USSR, para. 76; United Kingdom, paras. 52-58; United States, para. 84; Yugoslavia, paras. 72-73.

<sup>29</sup> 730th meeting: para. 85.

created by the unilateral action of the Egyptian Government in bringing to an end the system of international operation of the Suez Canal, which was confirmed and completed by the Suez Canal Convention of 1888",<sup>30</sup> submitted by France and the United Kingdom; and, as item 3, "Actions against Egypt by some Powers, particularly France and the United Kingdom, which constitute a danger to international peace and security and are serious violations of the Charter of the United Nations",<sup>31</sup> submitted by Egypt.

The representative of the United Kingdom stated, with reference to item 3, that this was clearly an attempt on the part of Egypt to confuse the issue and distract attention from the very problem which the Egyptian Government itself had created. If it was the view of other members that the Council should consider the item, he would be prepared not to oppose its inclusion in the agenda. The representative of France associated himself with the views expressed by the representative of the United Kingdom. The representative of Australia stated that the request to include item 3 in the agenda seemed to be an attempt to divert attention from the essential issue which was already before the Council.

The representative of the United States observed that his support for the inclusion of item 3 in the agenda did not mean that his Government was in agreement with the contention which had been made in the item submitted by Egypt.

The representative of the USSR, speaking in support of the inclusion of item 3 in the agenda, stated that at a time when the situation in the Near and Middle East was becoming increasingly acute, the Security Council was in duty bound to discuss the situation in order to promote the peaceful settlement of the dispute over Suez. Because the Council was obliged to hear both sides in a dispute, his delegation was in favour of inclusion of both items in the agenda.

The representatives of Iran and Yugoslavia expressed the view that the inclusion of item 3 in the agenda would in no way prejudice the substance of the issue.<sup>32</sup>

**Decision:** At the 734th meeting on 26 September 1956, after item 3 had been included in the agenda by 7 votes to none, with 4 abstentions, the Council adopted the provisional agenda.<sup>33</sup>

#### CASE 7

At the 746th meeting on 28 October 1956, the provisional agenda included a letter<sup>34</sup> dated 27 October 1956 from the representatives of France, the United Kingdom and the United States concerning the situation in Hungary.

<sup>30</sup> S/3654, O.R., 11th year, Suppl. for July-Sept. 1956, p. 47.

<sup>31</sup> S/3656, O.R., 11th year, Suppl. for July-Sept. 1956, p. 48.

<sup>32</sup> For texts of relevant statements, see :

734th meeting: Australia, para. 94; France, paras. 109-110; Iran, para. 83; USSR, paras. 56, 60-61; United Kingdom, paras. 18, 20; United States, para. 43; Yugoslavia, para. 74.

<sup>33</sup> 734th meeting: para. 123.

<sup>34</sup> S/3690, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 100.

The representative of the USSR, in opposing the inclusion of the item in the agenda, observed that the Government of the Hungarian People's Republic, in its declaration of 28 October 1956, had protested against placing on the agenda the consideration of any question which concerned the domestic affairs of Hungary. He maintained that the invocation of Article 34 by the three sponsoring Powers, in submitting the item to the Security Council, was unwarranted because that Article empowered the Council to investigate only disputes or situations of an international character.

**Decision:** *At the 746th meeting on 28 October 1956, the Council adopted the agenda by 9 votes in favour to 1 against, with 1 abstention.*<sup>35</sup>

At the 752nd meeting on 2 November 1956, the President (Iran) informed the Council that, by another letter<sup>36</sup> dated 2 November 1956, the representatives of France, the United Kingdom and the United States had requested an urgent meeting of the Council to consider the item on the situation in Hungary, of which the Council had already been seized.

The representative of the USSR observed:

"The Soviet delegation objected at a previous meeting of the Council [746th meeting] to the inclusion of this item in the agenda, and explained why it was opposed to the consideration of this question in the Security Council. Our objections still stand, and I shall vote again today against the inclusion of this item in the agenda, especially in view of the way in which this meeting of the Council was called. The President has already explained the hurried manner in which this was done, and there is no need for me to deal with the point."

**Decision:** *The agenda was adopted by 10 votes in favour and 1 against.*<sup>37</sup>

At the 753rd meeting on 3 November 1956, the representative of the USSR again stated that he maintained the objections to the inclusion of the item in the agenda which he had raised at the 746th meeting. The President replied that the objections of the representative of the USSR were noted. The President made a similar statement at the 754th meeting on 4 November 1956.<sup>38</sup>

#### CASE 8

At the 750th meeting on 30 October 1956, the provisional agenda contained, as item 2, a letter<sup>39</sup> dated 29 October 1956 from the representative of the United

<sup>35</sup> 746th meeting: para. 35.

<sup>36</sup> S/3723, *O.R.*, 11th year, *Suppl. for Oct.-Dec. 1956*, p. 117.

<sup>37</sup> 752nd meeting: para. 6.

<sup>38</sup> For texts of relevant statements, see:

746th meeting: President (France), paras. 7, 9; USSR, paras. 6, 8, 10, 12, 24; United Kingdom, paras. 30-31;

752nd meeting: President (Iran), paras. 3-4; USSR, para. 5;

753rd meeting: President (Iran), para. 3; USSR, para. 2;

754th meeting: President (Iran), para. 1.

<sup>39</sup> S/3706, *O.R.*, 11th year, *Suppl. for Oct.-Dec. 1956*, p. 108.

States; and, as item 3, a letter<sup>40</sup> dated 30 October 1956 from the representative of Egypt.

The representative of the United Kingdom, speaking of item 3, stated that the letter submitted by Egypt dealt with the substance of a letter which he himself had read out to the Council at its 749th meeting. He did not accept the implications and statements contained in the letter from the representative of Egypt, nor did he believe that the item would add to a constructive consideration of the serious question which was before the Council.

The President, speaking as the representative of France, associated himself with the statement made by the representative of the United Kingdom.

The representative of Iran proposed to include item 3 in the agenda.<sup>41</sup>

**Decision:** *At the 750th meeting on 30 October 1956, following the adoption of the Iranian proposal to include item 3 of the agenda by 7 votes in favour to none against, with 4 abstentions, the Council adopted the agenda.*<sup>42</sup>

#### CASE 9

At the 755th meeting on 5 November 1956, the provisional agenda included, as item 2, a cablegram<sup>43</sup> dated 5 November 1956 from the Minister of Foreign Affairs of the Soviet Union concerning "Non-compliance by the United Kingdom, France and Israel with the decision of the emergency special session of the General Assembly of 2 November 1956 and immediate steps to halt the aggression of the aforesaid States against Egypt". The cablegram also included a draft resolution.

After the Council had rejected the provisional agenda,<sup>44</sup> several representatives explained their votes on grounds related to the substance of the item. The representatives of Belgium, China, Cuba, Peru and the United States maintained that the question of hostilities in Egypt was being dealt with by the emergency special session of the General Assembly and by the Secretary-General, and that the USSR proposal would hamper the efforts which were already being made to solve the problem.

The representative of the United Kingdom maintained that the USSR proposal was meaningless in terms of the United Nations since it embodied the idea that two permanent members of the Council should combine against two other permanent members, whereas the Organization had been founded on the assumption

<sup>40</sup> S/3712, *O.R.*, 11th year, *Suppl. for Oct.-Dec. 1956*, p. 111.

<sup>41</sup> For texts of relevant statements, see:

750th meeting: President (France), para. 5; Iran, para. 6; United Kingdom, paras. 3-4.

<sup>42</sup> 750th meeting: para. 9.

<sup>43</sup> S/3736, *O.R.*, 11th year, *Suppl. for Oct.-Dec. 1956*, pp. 228-230.

<sup>44</sup> For decision, see Case 3.

that there would be unity among those four great Powers.

The representative of the USSR, having noted that the resolutions of the General Assembly adopted at its first emergency special session had not been complied with, stated that the situation required immediate and resolute action by the United Nations in accordance with Article 42 of the Charter. The fact that the General Assembly was taking action on any question did not relieve the Security Council of the obligation to act if the circumstances so demanded. The Soviet Government had submitted the draft resolution to the Council only when it had become clear that the moral pressure of the General Assembly would have no effect on the aggressor States.<sup>45</sup>

#### CASE 10

At the 778th meeting on 20 May 1957, the provisional agenda included, as item 2, a letter<sup>46</sup> dated 15 May 1957 from the representative of France relating to the Suez Canal.

The representative of the USSR, in opposing the inclusion of the item in the agenda, stated that any renewal of discussion on the Suez problem, particularly in the form suggested in the letter from the representative of France, could only lead to undesirable complications in regard to peace in the Middle East.

The representative of the United Kingdom, in supporting the inclusion of the item in the agenda, emphasized that the Egyptian declaration had not closed discussion on the question of the Suez Canal, as the representative of the USSR had claimed.<sup>47</sup>

**Decision:** *The agenda was adopted by 10 votes to none, with 1 abstention.*<sup>48</sup>

#### CASE 11

At the 783rd meeting on 20 August 1957, the provisional agenda included, as item 2, a letter<sup>49</sup> dated 13 August 1957 from the permanent representatives of Egypt, Iraq, Jordan, Lebanon, Libya, Morocco, Saudi Arabia, Sudan, Syria, Tunisia and Yemen requesting the President of the Security Council to convene an urgent meeting of the Council, under Article 35 of the Charter, to consider the "armed aggression" by the United Kingdom against the in-

dependence, sovereignty and territorial integrity of the Imamate of Oman.

The representative of Iraq stated that the eleven Member States had brought the matter to the attention of the Security Council in the belief that a debate on the question and a decision thereon would publicize the extent to which the peace of the world was endangered when some States arrogated to themselves the task of settling unilaterally their differences with others. British intervention in Oman was not only contrary to the principles of the United Nations Charter, but it was also subversive of the whole foundation on which the United Nations was constructed. The facts of the situation had thrown in doubt the sense of security of the small States created within the structure of the United Nations, for an impression had been gained that the Organization would be incapable of protecting the interests of small nations when those interests did not suit the interests of large States. The representative of Iraq further stated that the Council was called upon to investigate the matter under Articles 34 and 35 of the Charter and, in his view, the question deserved urgent consideration by the Council, for the events which had recently taken place in Oman left no doubt that the situation might endanger the maintenance of international peace and security.

The representative of the United Kingdom, in opposing the inclusion of the item in the agenda, observed that in the Security Council the term "aggression" should be used with due regard for its meaning. The signatories of the letter of 13 August 1957 had themselves recognized this, at least to some extent. Although they had referred to armed aggression and full-scale war, they had not invoked Chapter VII of the Charter, but had referred the matter to the Council as a dispute or situation under Article 35. In his view, armed aggression presupposed action between two sovereign States. The letter of complaint, in charging aggression against the independence, sovereignty and territorial integrity of the Imamate of Oman, assumed that there was an independent sovereign State by that name. If the Council were to accept that letter as a basis for discussion and decision, then it, too, would be acting on such an assumption. In fact, however, there was no independent and sovereign State of Oman, the district of Oman being a part of the dominions of the Sultan of Muscat and Oman who had already reminded the Council that the matter was exclusively within his domestic jurisdiction. He further stated that Britain had taken military action in response to the request of the Sultan for assistance against a revolt which was encouraged and supported from outside, therefore the charges against the United Kingdom were not only without foundation but the incoherent and illogical manner in which these charges had been formulated justified the Council in declining to include the item in the agenda.

The representative of the Philippines observed that the mere allegation that aggression had been committed by a Member State was a matter of deep concern to the United Nations. He further stated that the fact that the letter of submission had been signed by eleven

<sup>45</sup> For texts of relevant statements, see :

755th meeting : Australia, para. 63 ; Belgium, paras. 53-54 ; China, para. 56 ; Cuba, para. 47 ; France, para. 79 ; Peru, paras. 57-60 ; USSR, paras. 37-43 ; 65-75 ; United Kingdom, para. 50 ; United States, para. 29.

<sup>46</sup> S/3829, *O.R.*, 12th year, *Suppl. for Apr.-June 1957*, pp. 20-21.

<sup>47</sup> For texts of relevant statements, see :

778th meeting : USSR, paras. 4-11 ; United Kingdom, para. 13.

<sup>48</sup> 778th meeting : para. 14.

<sup>49</sup> S/3865 and Add.1, *O.R.*, 12th year, *Suppl. for July-Sept. 1957*, pp. 16-17.

Member States and that the allegation of military intervention had not been disputed, reflected in some measure the seriousness of the charge and the gravity of the situation. He reminded the Council that it was obliged under Article 39 to consider the item if only to determine whether or not an act of aggression had been committed, that it was empowered under Article 34 to investigate any dispute or situation of the nature defined in that Article, and that Article 2(7) expressly permitted the United Nations to intervene and take enforcement measures where there was a threat to peace, a breach of the peace or an act of aggression, even in matters which were essentially within the domestic jurisdiction of a State. The representative of the Philippines emphasized that the inclusion of the item in the agenda would not prejudice the position of any member of the Council on the substance of the question.

The representative of the USSR, in supporting the inclusion of the item in the agenda, declared that his delegation attached great importance to the appeal by eleven Arab Member States since it demonstrated the deep concern of the Arab peoples about the situation which had arisen because of British intervention in the internal affairs of Oman. He further declared that the Security Council should not fail to listen to the justified request of a group of Member States of the United Nations.

At the 784th meeting on 20 August 1957, the representative of Sweden, in supporting the inclusion of the item in the agenda, stated that the Security Council should not shirk its responsibility to maintain international peace and security, nor should a party to any dispute be denied an opportunity to present its case. While there had been no reason, so far, to dispute the British position that no illegal aggression had taken place, it was difficult to share the opinion of the representative of the United Kingdom that the matter was purely within the domestic jurisdiction of the Sultan, since the Council was confronted not merely with the suppression of an internal revolt but also with the intervention of a third Power.

The representatives of Australia, Cuba and France opposed the inclusion of the item in the agenda, expressing views in support of the position taken by the representative of the United Kingdom.

The representative of Iraq stated that the eleven Member States had invoked Article 35 of the Charter merely to define their capacity in requesting the Council to consider the question, since under the Article any Member had the right and duty to bring any dispute or situation of the nature referred to in Article 34 to the attention of the Council. In doing so, the signatories had reserved their position with regard to any measure or action which the Council might take under Chapter VI or Chapter VII of the Charter.

The representative of the United States observed that the information available on the question was not sufficient to justify his Government in committing itself for or against the inscription of the item. The United States, however, would not accept as valid the interpretation of the situation as set forth in the letter from

the eleven Member States, since that letter had been formulated in such terms as to constitute a prejudgment of the case.

The representative of China stated that, in the light of the explanation given by the representative of the United Kingdom, the question of whether the Council was competent to deal with the matter depended upon the legal status of the Sultan of Oman in relation to the dispute. Since this aspect of the problem required further clarification, it would be premature for the Council to take a decision on the question of the adoption of the agenda.

**Decision:** *At the 784th meeting on 20 August 1957, the Council rejected the provisional agenda by 4 votes in favour to 5 against, and 1 abstention, with one member present and not voting.*<sup>50</sup>

After the Security Council had rejected the provisional agenda, the representative of Iraq declared that the decision did not reflect the liberal attitude which the Council had followed in the past with regard to items proposed by Member States. The rejection of the item showed a denial of the principle contained in Article 1(4) of the Charter which placed upon the Members the duty of utilizing the United Nations as a centre for harmonizing the actions of nations in relation to one another.<sup>51</sup>

## 2. Effect of the inclusion of an item in the agenda

### CASE 12

At the 750th meeting on 30 October 1956, the provisional agenda included, as item 3, a letter<sup>52</sup> dated 30 October 1956 from the representative of Egypt.

The President, speaking as the representative of France, and the representative of the United Kingdom objected to the inclusion of the item in the agenda.

The representative of Iran, in supporting the inclusion of the item in the agenda, observed:

"According to the Council's practice, as the President knows better than I, to place a question on the agenda of a meeting does not mean that all the members of the Council are in agreement with regard to the complaint submitted to them. Furthermore, we cannot know whether or not there are grounds for the complaint unless the item is placed on the agenda and the country which had submitted it has an opportunity to state its case..."<sup>53</sup>

<sup>50</sup> 784th meeting: para. 87.

<sup>51</sup> For texts of relevant statements, see:

783rd meeting: Cuba, paras. 72-77; Iraq, paras. 3-26; Philippines, paras. 60-71; USSR, paras. 78-95; United Kingdom, paras. 27-59; 784th meeting, Australia, paras. 17-24; China, paras. 12-16; France, paras. 25-33; Iraq, paras. 34-71; Sweden, paras. 8-11; United Kingdom, paras. 77-81; United States, paras. 1-7.

<sup>52</sup> S/3712, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 111.

<sup>53</sup> For texts of relevant statements, see:

750th meeting: President (France), para. 5; Iran, para. 6; United Kingdom, paras. 3-4. For decision, see Case 8.

## CASE 13

At the 755th meeting on 5 November 1956, in connexion with a cablegram<sup>54</sup> dated 5 November 1956 from the Minister for Foreign Affairs of the Soviet Union, after the provisional agenda had been rejected, the President, speaking as the representative of Iran, stated:

"... The majority of the Security Council members have always held—and my delegation entirely shares that view—that the inclusion of an item in the agenda in no way prejudices the substance of the question. My delegation voted in favour of the adoption of the agenda, because it believes that, if the meaning and scope of an item whose inclusion is requested by a delegation are to be properly understood, the item must first be placed on the agenda."<sup>55</sup>

### C. OTHER DISCUSSION ON THE ADOPTION OF THE AGENDA

#### 1. Order of discussion of items on the agenda

## CASE 14

At the 734th meeting on 26 September 1956, the provisional agenda included, as item 2, "Situation created by the unilateral action of the Egyptian Government in bringing to an end the system of international operation of the Suez Canal, which was confirmed and completed by the Suez Canal Convention of 1888"; and, as item 3, "Actions against Egypt by some Powers, particularly France and the United Kingdom, which constitute a danger to international peace and security and are serious violations of the Charter of the United Nations".

The representative of the United Kingdom proposed to deal first with item 2 of the provisional agenda, in accordance with the normal procedure in the Security Council. The representative of the United States observed that the item proposed by France and the United Kingdom should have priority of consideration and that the item submitted by Egypt should be deferred until the former item had been disposed of.

The representative of the USSR proposed to consider first the item submitted in Egypt. The representative of France opposed this proposal.

The representative of Yugoslavia maintained that the logical procedure would be to discuss both items simultaneously, for it would be impossible to do otherwise than consider the various aspects of the problem in their interrelationship.

The President, speaking as the representative of Cuba, and the representative of Peru supported the inclusion of both items in the provisional agenda and their discussion in the order in which they appeared therein. The representative of China believed that the rules of

procedure of the Council required that the items should be dealt with in that order.

Following the inclusion of the two items in the agenda,<sup>56</sup> the President observed in reply to the representative of the USSR that there were no proposals concerning the order of consideration of the items before the Council and that it was normal procedure to deal with them in the order of inclusion. The representative of Yugoslavia then moved that both items be discussed simultaneously.<sup>57</sup>

**Decision:** *The proposal of the representative of Yugoslavia was rejected by 2 votes in favour, 6 against, with 3 abstentions.*<sup>58</sup>

The President then declared that, in accordance with the Council's decision, the two items would be discussed separately, item 2 first and item 3 second.<sup>59</sup>

## CASE 15

At the 787th meeting on 6 September 1957, in connexion with the Palestine question, the following sub-items appeared under item 2 of the provisional agenda: (a) letter<sup>60</sup> dated 4 September 1957 from the permanent representative of Jordan, and (b) letter<sup>61</sup> dated 5 September 1957 from the acting permanent representative of Israel.

Following adoption of the agenda, the President (Cuba) indicated that the Council would have to decide whether to proceed in accordance with the proposal made by the representatives of Iraq and the USSR to consider the sub-items separately.

The representative of China proposed that the Council should take a decision on the order of debate only after hearing the statements of the two parties directly concerned; the Council would then know the extent to which the two aspects of the problem were interrelated and whether the substance of the matter and the convenience of debate required simultaneous or consecutive consideration. This proposal was supported by the representatives of Australia and the Philippines.

The representative of Iraq maintained that the item submitted by Jordan was concerned with an immediate and actual violation of the armistice agreements, whereas the item submitted by Israel was a standing question which could have been brought before the Council several years earlier. To have statements on two different matters would, in his opinion, lead to confusion. He

<sup>56</sup> 734th meeting: para. 122.

<sup>57</sup> For texts of relevant statements, see:

734th meeting: President (Cuba), paras. 118, 126, 133; China, paras. 78-79; France, para. 110; Peru, para. 65; USSR, paras. 60-63, 124-125, 131-132; United Kingdom, paras. 11, 21, 107, 130; United States, para. 43; Yugoslavia, paras. 74-75, 127-128.

<sup>58</sup> 734th meeting: para. 133.

<sup>59</sup> 734th meeting: para. 143.

<sup>60</sup> S/3878, O.R., 12th year, Suppl. for July-Sept. 1957, pp. 33-34.

<sup>61</sup> S/3883, O.R., 12th year, Suppl. for July-Sept. 1957, pp. 35-36.

<sup>54</sup> S/3736, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 128-130.

<sup>55</sup> 755th meeting: para. 64. For decision, see Case 3.



therefore proposed, with the support of the representative of the USSR, that the Council first consider sub-item (a) and then sub-item (b).

**Decision:** *The Council adopted the proposal of the representative of China by 9 votes in favour to 1 against, with 1 abstention. The proposal of the representative of Iraq was not put to the vote.*<sup>62</sup>

At the 787th and 788th meetings on 6 September 1957, the representatives of Jordan \* and Israel \* made their preliminary statements before the Council.

At the 806th meeting on 22 November 1957, after inviting the representatives of Israel and Jordan to participate in the discussion, the President (Iraq) stated:

"Before I proceed to give the floor to the speakers on my list, I should like to point out that it may be desirable that the speakers who are called upon to take the floor should address themselves to subparagraph (a) of paragraph 2 of the agenda."

The representative of Israel \* observed:

"...I think it will be recalled that at the last meeting of the Council it was decided that, until such time as the parties had been heard, there would be no determination as to the order in which the two sub-items would be taken up, and this was accordingly done. The parties were heard, but we are still, I am afraid, in exactly the same state. The parties have not completed the presentation of their cases, and I for one am perfectly ready to deal with both sub-items.

"I think it should be recalled that this has been the practice of the Council in the past. Sub-items on the Palestine question have invariably been taken together. As far as my delegation is concerned, we should prefer to pursue the same practice as has been adopted by the Council in the past and deal with both items together."

The President, having drawn the attention of the Council to the suggestion of the representative of Israel, reiterated his original proposal and invited comment thereon. He then stated:

"I see that no member of the Council wishes to speak on this point. Since there is no comment, I take it that the Council approves the proposal of the Chair that all speakers should address themselves to subparagraph (a) of item 2 of the agenda for today."<sup>63</sup>

**Decision:** *The Council adopted, without vote, the proposal of the President.*<sup>64</sup>

<sup>62</sup> 787th meeting: para. 39.

<sup>63</sup> For texts of relevant statements, see:

787th meeting: President (Cuba), paras. 29, 39; Australia, para. 32; China, paras. 30-31; Iraq, paras. 35-37; Philippines, paras. 33-34; USSR, para. 38;

788th meeting: China, para. 70;

806th meeting: President (Iraq), paras. 1, 5-6; Israel \*, paras. 3-4.

<sup>64</sup> 806th meeting: para. 6.

## CASE 16

At the 789th meeting on 9 September 1957, agenda item 2 on Admission of new Members included three sub-items relating respectively to the applications of the Republic of Korea, Viet-Nam,<sup>65</sup> and the Mongolian People's Republic.<sup>66</sup>

The representative of the USSR expressed a preference for simultaneous discussion of all the sub-items and the proposals on them, followed by separate votes on the proposals.

The President (Cuba) replied that, in accordance with the practice of the Council and the 1948 advisory opinion of the International Court of Justice on Admission of a State to the United Nations, the sub-items should be discussed separately.

The representative of the United States, in supporting the position taken by the President, maintained that it had been the established practice of the Council to consider each application for membership on its own merits, a procedure which required that each application be considered separately.

The representative of the USSR stated that, though he would not object to the procedure proposed by the President, he believed that each delegation was free to decide whether to set forth its position on the three applications in one or more statements.

The President declared that the Council would take up sub-item (a), but that this would not preclude members from speaking on the other sub-items.<sup>67</sup>

## 2. Scope of items and sub-items on the agenda in relation to the scope of discussion

### CASE 17

At the 831st meeting on 17 July 1958, in connexion with the letter<sup>68</sup> of 22 May 1958 from the representative of Lebanon, the provisional agenda included as a third item a letter dated 17 July 1958 from the representative of Jordan entitled, "Complaint by the Hashemite Kingdom of Jordan of interference in its domestic affairs by the United Arab Republic".

The President (Colombia) suggested that the Council take up item 3 first to afford the representatives of Jordan and the United Kingdom an opportunity to be heard as a matter of urgency.

The representative of the USSR suggested that the close connexion between the two questions on the provisional agenda warranted discussing them together.

<sup>65</sup> Resolution 1017 (XI), 28 February 1957; S/3803, *O.R.*, 12th year, *Suppl. for Jan.-Mar. 1957*, p. 11; S/3880, *O.R.*, 12th year, *Suppl. for July-Sept. 1957*, p. 34; S/3881, *ibid.*, pp. 34-35.

<sup>66</sup> S/3873, *O.R.*, 12th year, *Suppl. for July-Sept. 1957*, p. 23; S/3877, *ibid.*, p. 33.

<sup>67</sup> For texts of relevant statements, see:

789th meeting: President (Cuba), para. 6; USSR, paras. 1-2, 9; United States, paras. 7-8.

<sup>68</sup> S/4007, *O.R.*, 13th year, *Suppl. for Apr.-June 1958*, p. 33.

The representative of the United States, concurring with the representative of the Soviet Union, suggested that the order of the agenda be left unchanged, that special statements from Jordan and the United Kingdom on item 3 be heard at the start of the meeting and that members of the Council be free as usual to discuss both items.

The President, after noting that the foregoing obser-

vations were in effect not in conflict with his suggestion, declared the agenda adopted.<sup>69</sup>

**\*\*3. Phrasing of items on the agenda**

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

<sup>69</sup> For texts of relevant statements, see:

831st meeting (PV): President (Colombia), pp. 2, 6; USSR, pp. 3-5; United States, p. 6.

**Part IV**

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

**NOTE**

Rule 10 of the provisional rules of procedure was designed to enable the Security Council to continue, at its next meeting, the consideration of an unfinished item without a renewed debate on the adoption of the agenda. However, the provisional agenda has not invariably contained all items of unfinished business. The case history included in section A (Case 18) is related to an instance when the Council continued the consideration of an item, as a matter of urgency, at a meeting which, by a previous decision, had been allocated to the consideration of another item.

In the volume of the *Repertoire* covering the period 1946-1951, it was noted<sup>70</sup> that items on the agenda of the Council have remained on the Secretary-General's Summary Statement of matters of which the Security Council is seized when the tenor of the Council's discussion has revealed a continuing concern with the matter. During the period under review, additional evidence supporting such retention has been provided when the President of the Council has announced, upon the conclusion of debate, that the Council remained seized of a question (Cases 19 and 20).

The tabulation appearing in section B.1 brings up to date those appearing in previous volumes of the *Repertoire*.

**A. RULE 10**

**CASE 18**

At the 748th meeting on 30 October 1956, in connexion with the Palestine question, with special reference

<sup>70</sup> *Repertoire of the Practice of the Security Council, 1946-1951*, p. 84.

to steps for the immediate cessation of the military action of Israel in Egypt, after the list of speakers had been exhausted, the President (France) inquired whether the Council desired to hear the representatives of the parties or to adjourn the meeting until that afternoon.

The representative of the United States observed that he had a draft resolution to submit to the Council, and he wished to be assured that that would be the pending business at the afternoon meeting.

The representative of Australia recalled that, in connexion with the Palestine question, the Council was seized of the Israel and Jordanian complaints which had been scheduled for discussion at the afternoon meeting.<sup>71</sup> However, it would be desirable to postpone that discussion and continue in the afternoon with the consideration of the item which had been introduced by the representative of the United States.

At the 749th meeting held in the afternoon of 30 October 1956, the Council continued its consideration of the item submitted by the representative of the United States.<sup>72</sup>

<sup>71</sup> At the 745th meeting on 25 October 1956, the representative of Iran proposed to adjourn the meeting until the following week, the date to be decided by the President (France) after consultation with the members. The representative of the USSR proposed, in view of the urgency of the question before the Council, to fix a date for the next meeting not later than the following Tuesday. The President adjourned the meeting, without objection, until Tuesday afternoon, 30 October 1956. For texts of relevant statements, see: 745th meeting: President (France), para. 111; Iran, para. 103; USSR, paras. 105-106.

<sup>72</sup> For texts of relevant statements, see: 748th meeting: President (France), paras. 54, 56; Australia, para. 57; United States, para. 55.

## B. RULE 11

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

This tabulation, which supplements those appearing in the *Repertoire*, 1946-1951, pp. 85-91, and the *Supplement*, 1952-1955, pp. 33-40, covers matters appearing in the Secretary-General's Summary Statements during the period 1956-1958. The items included are (1) those of which the Security Council was seized at the close of the period covered by the earlier tabulations, and (2) items of which the Council has been seized since that time. Items are listed in the order in which they have appeared in the Summary Statement. Items to the end of 1955 are numbered to conform with the numbering in the earlier tabulation. The titles used are those occurring in the Summary Statement except for occasional abridgments. Two items: (1) Appointment of the Secretary-General, and (2) Election of Members of the International Court of Justice, are not included in the present tabulation, because neither item was included in any of the Summary Statements issued during the period under review.<sup>a</sup>

| <i>Item</i>   | <i>First inclusion in the agenda</i> | <i>First entry in Summary Statement</i> | <i>Last action of the Council as of 31 December 1958</i>   | <i>Final entry in Summary Statement as of 31 December 1958</i> |
|---|--------------------------------------|---|--|--|
| 1. The Iranian question   | 3rd meeting<br>28 January 1946       | S/45<br>23 April 1946                   | Adopted Netherlands proposal to adjourn discussion and resume it at the request of any member<br>43rd meeting,<br>22 May 1946 <sup>b</sup>                     |  |
| 3. Statute and Rules of Procedure of Military Staff Committee                                 | 1st meeting<br>17 January 1946       | S/45<br>23 April 1946                   | Referred report of Military Staff Committee to Committee of Experts<br>23rd meeting,<br>16 February 1946   |  |
| 4. Special Agreements under Article 43 of the Charter   | 1st meeting<br>17 January 1946       | S/45<br>23 April 1946                   | Discussed report of Military Staff Committee<br>157th meeting,<br>15 July 1957   |  |
| 5. Rules of Procedure of the Security Council   | 1st meeting<br>17 January 1946       | S/45<br>23 April 1946                   | Amended rules<br>468th meeting,<br>28 February 1950  |  |
| 14. The general regulation and reduction of armaments   | 88th meeting<br>31 December 1946     | S/238 <sup>c</sup><br>3 January 1947    | Dissolved Commission for Conventional Armaments in accordance with recommendation in General Assembly resolution 502 (VI)<br>571st meeting,<br>30 January 1952 |  |
| Information on armed forces of United Nations (General Assembly resolution 41 (I) and 42 (I)) | 89th meeting<br>7 January 1947       | S/246 <sup>c</sup><br>10 January 1947   |  |  |
| 19. Appointment of a Governor of the Free Territory of Trieste                                | 143rd meeting<br>20 June 1947        | S/382<br>20 June 1947                   | Postponed discussion of the item<br>647th meeting,<br>14 December 1953   |  |
| 20. The Egyptian question   | 159th meeting<br>17 July 1947        | S/425<br>18 July 1947                   | Rejected Chinese draft resolution<br>201st meeting,<br>10 September 1947 <sup>d</sup>  |  |

<sup>a</sup> The item "Appointment of the Secretary-General" was considered by the Council at its 792nd meeting, held in private on 26 September 1957, and the item "Election of Members of the International Court of Justice" was discussed by the Council at its 793rd and 794th meetings on 1 October 1957.

<sup>b</sup> See *Repertoire of the Practice of the Security Council*

1946-1951, Case 56, pp. 92-93.

<sup>c</sup> Combined in S/279 of 14 February 1947 in accordance with the Security Council's decision to deal with the two items together.

<sup>d</sup> See *Repertoire of the Practice of the Security Council* 1946-1951, Case 59, pp. 95-96.

| <i>Item</i>   | <i>First inclusion in the agenda</i> | <i>First entry in Summary Statement</i> | <i>Last action of the Council as of 31 December 1958</i>   | <i>Final entry in Summary Statement as of 31 December 1958</i> |
|---|--------------------------------------|---|--|--|
| 21. The Indonesian question (II)  | 171st meeting<br>31 July 1947        | S/461<br>1 August 1947                  | Failed to adopt Canadian draft resolution and rejected Ukrainian SSR draft resolution 456th meeting. <sup>a</sup><br>13 December 1949  |  |
| 22. Voting procedure in the Security Council  | 197th meeting<br>27 August 1947      | S/533<br>29 August 1947                 | Presidential statement concerning outcome of meetings of five permanent members in accordance with General Assembly resolution of 14 April 1949, 195th plenary session 452nd meeting,<br>18 October 1949   |  |
| 24. Procedure in application of Articles 87 and 88 of the Charter with regard to the Pacific Islands under Strategic Trusteeship of the United States | 220th meeting<br>15 November 1947    | S/603<br>15 November 1947               | Adopted resolution concerning procedure to be employed in application of Articles 87 and 88 of the Charter to strategic areas under Trusteeship 415th meeting,<br>7 March 1949   |  |
| 25. Applications for membership. <sup>f</sup> Republic of Korea   | 409th meeting<br>15 February 1949    | S/1244<br>7 February 1949               | Not recommended 423rd meeting,<br>8 April 1949   |  |
| Letter of 11 February 1949 from the representative of the USSR concerning application by the Democratic People's Republic of Korea                    | 409th meeting<br>15 February 1949    | S/1257<br>14 February 1949              | Rejected USSR proposal to refer application to Committee on Admission of New Members 410th meeting,<br>16 February 1949  |  |
| 26. The Palestine question  | 222nd meeting<br>9 December 1947     | S/623<br>12 December 1947               | Noted Secretary-General's intention to visit countries concerned in order to ease tension 849th meeting,<br>15 December 1958   |  |
| 27. The India-Pakistan question <sup>g</sup>  | 226th meeting<br>6 January 1948      | S/641<br>9 January 1948                 | Adopted a joint draft resolution (S/3911), as amended, to call upon the two Governments to co-operate with the United Nations Representative in order to arrive at an agreement on the problem of demilitarization <sup>h</sup><br>808th meeting,<br>2 December 1957 |  |
| 28. The Czechoslovak question   | 268th meeting<br>17 March 1948       | S/700<br>22 March 1948                  | Discussed Argentine draft resolution 305th meeting,<br>26 May 1948   |  |

<sup>a</sup> See *Repertoire of the Practice of the Security Council 1946-1951*, Case 61, p. 97.

<sup>f</sup> Listed under this heading are only those applications which failed to obtain recommendations as others were admitted by the Council's later actions as of 31 December 1957.

<sup>g</sup> The India-Pakistan question: This item was entitled the Kashmir question in S/641. This was changed to the Kashmir

and Jammu question in S/653 of 17 January 1948. The present title, India-Pakistan question, first appears in S/675 of 13 February 1948.

<sup>h</sup> The text of the draft resolution as adopted appears in document S/3922, *O.R.*, 12th year, *Suppl. for Oct.-Dec. 1957*, pp. 21-22.

| <i>Item</i>  | <i>First inclusion<br/>in the agenda</i> | <i>First entry in<br/>Summary Statement</i> | <i>Last action of the<br/>Council as of<br/>31 December 1958</i>   | <i>Final entry in<br/>Summary Statement as<br/>of 31 December 1958</i> |
|--|--|---|--|--|
| 30. Question of the Free Territory of Trieste  | 344th meeting<br>4 August 1948           | S/959<br>10 August 1948                     | Rejected draft resolutions submitted by Yugoslavia and by Ukrainian SSR<br>354th meeting,<br>19 August 1948                                    |  |
| 31. The Hyderabad question   | 357th meeting<br>16 September 1948       | S/1010<br>22 September 1948                 | Heard statements by the representatives of India and Pakistan<br>425th and 426th meetings,<br>19 and 24 May 1959 <sup>i</sup>                  |  |
| 33. Identic Notifications dated 29 September 1948  | 362nd meeting<br>5 October 1948          | S/1029<br>9 October 1948                    | Rejected joint draft resolution (S/1048)<br>372nd meeting,<br>25 October 1948  |  |
| 38. International Control of Atomic Energy <sup>j</sup>  | 444th meeting<br>15 September 1949       | S/1394 <sup>k</sup><br>21 September 1949    | Adopted Canadian draft resolution, as amended, and rejected USSR draft resolution (S/1391/Rev.1)<br>447th meeting,<br>16 September 1949        |  |
| 43. Complaint of armed invasion of Taiwan (Formosa)  | 492nd meeting<br>29 August 1950          | S/1774<br>7 September 1950                  | Rejected draft resolutions (S/1757 and S/1921)<br>530th meeting,<br>30 November 1950   |  |
| 44. Complaint of bombing by air forces of the territory of China   | 493rd meeting<br>31 August 1950          | S/1774<br>7 September 1950                  | Failed to adopt U.S. draft resolution (S/1752) and rejected USSR draft resolution (S/1745/Rev.1)<br>501st meeting,<br>12 September 1950        |  |
| 48. Complaint of failure by the Iranian Government to comply with provisional measures indicated by the International Court of Justice in the Anglo-Iranian Oil Company case | 559th meeting<br>1 October 1951          | S/2364<br>2 October 1951                    | Adopted French motion to adjourn the debate until the International Court had ruled on its own competence<br>565th meeting,<br>19 October 1951 |  |
| 50. New applications for membership. Viet-Nam (S/2446)   | 594th meeting<br>2 September 1952        | S/2770<br>8 September 1952                  | Not recommended<br>603rd meeting,<br>19 September 1952   |  |
| Democratic Republic of Viet-Nam (S/2466)   | 594th meeting<br>2 September 1952        | S/2770<br>8 September 1952                  | Not recommended<br>603rd meeting,<br>19 September 1952   |  |
| 51. Question of appeal to States to accede to and ratify the Geneva Protocol of 1925 for the prohibition of the use of bacterial weapons                                     | 577th meeting<br>18 June 1952            | S/2679<br>23 June 1952                      | Rejected USSR draft resolution<br>583rd meeting,<br>26 June 1952   |  |

<sup>i</sup> See *Repertoire of the Practice of the Security Council 1946-1951*, Case 60, pp. 96-97.

<sup>j</sup> The agenda item at the 444th through 447th meetings of the Security Council was entitled "Letter dated 29 July 1949 from the Chairman of the Atomic Energy Commission addressed

to the President of the Security Council (S/1377)".

<sup>k</sup> An earlier summary statement, S/1388 of 12 September 1949, referred under the same heading to a Canadian draft resolution (S/1386) circulated in anticipation of the discussion of the question at a forthcoming meeting.

| <i>Item</i>  | <i>First inclusion<br/>in the agenda</i> | <i>First entry in<br/>Summary Statement</i> | <i>Last action of the<br/>Council as of<br/>31 December 1958</i>  | <i>Final entry in<br/>Summary Statement as<br/>of 31 December 1958</i> |
|--|--|---|---|--|
| 52. Question of request for investigation of alleged bacterial warfare   | 581st meeting<br>23 June 1952            | S/2687<br>1 July 1952                       | Rejected USSR draft resolution<br>585th meeting,<br>1 July 1952<br>Failed to adopt U.S. draft resolution<br>587th meeting,<br>3 July 1952<br>Failed to adopt U.S. draft resolution<br>590th meeting,<br>9 July 1952                           |  |
| 56. Letter dated 29 May 1954 from the acting permanent representative of Thailand to the United Nations addressed to the President of the Security Council (S/3220)  | 672nd meeting<br>3 June 1954             | S/3224<br>8 June 1954                       | Failed to adopt Thailand draft resolution (S/3229)<br>674th meeting,<br>18 June 1954  |  |
| 57. Cablegram dated 19 June 1954 from the Minister of External Relations of Guatemala addressed to the President of the Security Council (S/3232)  | 675th meeting<br>20 June 1954            | S/3257<br>29 June 1954                      | Failed to adopt Brazilian-Colombian draft resolution (S/3236/Rev.1)<br>Adopted French draft resolution (S/3237)<br>675th meeting,<br>20 June 1954 <sup>1</sup>  |  |
| 59. Letter dated 8 September 1954 from the representative of the U.S. addressed to the President of the Security Council   | 679th meeting<br>10 September 1954       | S/3289<br>13 September 1954                 | Adjourned to meet again upon request of any delegation<br>680th meeting,<br>10 September 1954   |  |
| 61. Letter dated 28 January 1955 from the representative of New Zealand addressed to the President of the Security Council concerning the question of hostilities in the area of certain islands off the coast of the mainland of China<br><br>Letter dated 30 January 1955 from the representative of the USSR addressed to the President of the Security Council concerning the question of acts of aggression by the U.S. against the People's Republic of China in the area of Taiwan and other islands of China | 689th meeting<br>31 January 1955         | S/3359<br>7 February 1955                   | Postponed consideration of matters contained in the letter from the representative of New Zealand<br>691st meeting,<br>14 February 1955<br>Rejected USSR motion to consider the next item on the agenda<br>691st meeting,<br>14 February 1955 |  |

<sup>1</sup> At the 676th meeting on 25 June 1954, the Council failed to adopt the agenda. For case history, see the *Supplement, 1952-1955*, Cases 22 and 23, pp. 33, 40.

| <i>Item</i>   | <i>First inclusion in the agenda</i> | <i>First entry in Summary Statement</i> | <i>Last action of the Council as of 31 December 1958</i>   | <i>Final entry in Summary Statement as of 31 December 1958</i> |
|---|--------------------------------------|---|--|--|
| 62. Applications for membership <sup>m</sup>  |                                      |   |  |  |
| Reconsideration. Mongolian People's Republic. Japan   | 701st meeting<br>10 December 1955    | S/3507<br>13 December 1955              | Rejected USSR amendment (S/3517) to United Kingdom draft resolution (S/3513) and postponed further consideration of latter<br>708th meeting,<br>21 December 1955   | See items 73 and 79 below                                      |
| Reconsideration. Republic of Korea. Viet-Nam  | 703th meeting<br>13 December 1955    | S/3515<br>15 December 1955              | Not recommended<br>704th meeting,<br>13 December 1955  | See item 85 below  |
| 64. Admission of new Members. Sudan   | 716th meeting<br>6 February 1956     | S/3549<br>13 February 1956              | Adopted joint draft resolution (S/3545)<br>716th meeting,<br>6 February 1956   | S/3549<br>13 February 1956                                     |
| 65. Admission of new Members. Morocco   | 731st meeting<br>20 July 1956        | S/3626<br>23 July 1956                  | Adopted French draft resolution (S/3620)<br>731st meeting,<br>20 July 1956   | S/3626<br>23 July 1956   |
| 66. Admission of new Members. Tunisia   | 732nd meeting<br>26 July 1956        | S/3630<br>30 July 1956                  | Adopted French draft resolution (S/3627)<br>732nd meeting,<br>26 July 1956   | S/3630<br>30 July 1956   |
| 67. The date of election to fill a vacancy in the International Court of Justice  | 733rd meeting<br>6 September 1956    | S/3644<br>10 September 1956             | Adopted resolution (S/3643)<br>733rd meeting,<br>6 September 1956  | S/3644<br>10 September 1956                                    |
| 68. Letter dated 23 September 1956 from the representatives of France and the United Kingdom addressed to the President of the Security Council (S/3654)                  | 734th meeting<br>26 September 1956   | S/3661<br>1 October 1956                | After adopting the first part of the joint draft resolution (S/3671), the Council rejected the second part as amended by Iran<br>743rd meeting,<br>13 October 1956 |  |
| 69. Letter dated 24 September 1956 from the representative of Egypt addressed to the President of the Security Council (S/3656)   | 734th meeting<br>26 September 1956   | S/3661<br>1 October 1956                | Rejected a motion to discuss this item simultaneously with the preceding one submitted by France and the United Kingdom<br>734th meeting,<br>26 September 1956     |  |
| 70. Letter dated 27 October 1956 from the representatives of France, the United Kingdom and the United States addressed to the President of the Security Council (S/3690) | 746th meeting<br>28 October 1956     | S/3738<br>6 November 1956               | Adopted United States draft resolution (S/3733) to call an emergency special session of the General Assembly<br>754th meeting,<br>4 November 1956                  |  |
| 71. Letter dated 25 October 1956 from the representative of France addressed to the Secretary-General (S/3689 and Corr.1)   | 747th meeting<br>29 October 1956     | S/3738<br>6 November 1956               | Adjourned its discussion to a further date<br>747th meeting,<br>29 October 1956  |  |

<sup>m</sup> Under this agenda heading, the applications remaining on the list are only those which failed to obtain recommendation.

| <i>Item</i>  | <i>First inclusion in the agenda</i> | <i>First entry in Summary Statement</i> | <i>Last action of the Council as of 31 December 1958</i>  | <i>Final entry in Summary Statement as of 31 December 1958</i> |
|--|--------------------------------------|---|---|--|
| 72. Letter dated 30 October 1956 from the representative of Egypt addressed to the President of the Security Council (S/3712)  | 750th meeting<br>30 October 1956     | S/3738<br>6 November 1956               | Adopted Yugoslav draft resolution (S/3719)<br>751st meeting,<br>31 October 1956   |  |
| 73. Admission of new Members. Japan  | 756th meeting<br>12 December 1956    | S/3759<br>17 December 1956              | Recommended<br>756th meeting,<br>12 December 1956   | S/3759<br>17 December 1956                                     |
| Mongolian People's Republic  | 756th meeting<br>12 December 1956    | S/3759<br>17 December 1956              | Rejected USSR draft resolution (S/3755)<br>756th meeting,<br>12 December 1956   |  |
| 74. Election of a member to fill the vacancy in the International Court of Justice   | 757th meeting<br>19 December 1956    | S/3761                                  | Recommended Mr. Wellington Koo to fill the vacancy left by Mr. Hsu Mo<br>760th meeting,<br>11 January 1957  | S/3770<br>14 January 1957                                      |
| 75. Admission of new Members. Ghana  | 775th meeting<br>7 March 1957        | S/3804<br>11 March 1957                 | Recommended<br>775th meeting,<br>7 March 1957   | S/3804<br>11 March 1957  |
| 76. Admission of new Members. Malaya   | 786th meeting<br>5 September 1957    | S/3886<br>9 September 1957              | Recommended<br>786th meeting,<br>5 September 1957   | S/3886<br>9 September 1957                                     |
| 77. Admission of new Members. Republic of Korea  | 789th meeting<br>9 September 1957    | S/3888<br>17 September 1957             | Rejected USSR amendment (S/3887) to recommend simultaneous admission of Democratic People's Republic of Korea and of the Republic of Korea<br><br>Not recommended<br>790th meeting,<br>9 September 1957 |  |
| Viet-Nam   | 789th meeting<br>9 September 1957    | S/3888<br>17 September 1957             | Not recommended<br>790th meeting,<br>9 September 1957   |  |
| Mongolian People's Republic  | 789th meeting<br>9 September 1957    | S/3888<br>17 September 1957             | Not recommended<br>790th meeting,<br>9 September 1957   |  |
| 78. The Tunisian Question (I): Letter dated 13 February 1958 from the permanent representative of Tunisia to the President of the Security Council concerning: "Complaint by Tunisia in respect of an act of aggression committed against it by France on 8 February 1958 at Sakiat-Sidi-Youssef"<br><br>Letter dated 14 February 1958 from the permanent representative of France to the President of the Security Council concerning: "Situation | 811th meeting<br>18 February 1958    | S/3967<br>26 February 1958              | Adjourned the meeting under rule 33<br>811th meeting,<br>18 February 1958   |  |



| <i>Item</i>  | <i>First inclusion<br/>in the agenda</i> | <i>First entry in<br/>Summary Statement</i> | <i>Last action of the<br/>Council as of<br/>31 December 1958</i>  | <i>Final entry in<br/>Summary Statement as<br/>of 31 December 1958</i> |
|--|--|---|---|--|
| resulting from the aid furnished by Tunisia to rebels enabling them to conduct operations from Tunisian territory directed against the integrity of French territory and the safety of the persons and property of French nationals "  |  |   |   |  |
| 79. Letter dated 20 February 1958 from the representative of the Sudan addressed to the Secretary-General  | 812th meeting<br>21 February 1958        | S/3967<br>26 February 1958                  | Decided that the next meeting, if necessary, would be called after consultation among members and the parties concerned<br>812th meeting,<br>21 February 1958 |  |
| 80. Complaint of the representative of the USSR  | 814th meeting<br>29 April 1958           | S/3996<br>28 April 1958                     | Failed to adopt United States draft resolution (S/3995), as amended by Sweden, and rejected USSR draft resolution (S/3997)<br>817th meeting,<br>2 May 1958    |  |
| 81. Letter dated 22 May 1958 from the representative of Lebanon addressed to the President of the Security Council concerning: " Complaint by Lebanon in respect of a situation arising from the intervention of the United Arab Republic in the internal affairs of Lebanon, the continuance of which is likely to endanger the maintenance of international peace and security "   | 818th meeting<br>27 May 1958             | S/4017<br>2 June 1958                       | Decided to delete this item from the list of matters of which the Council is seized<br>840th meeting,<br>25 November 1958                                     | S/4120<br>1 December 1958  |
| 82. The Tunisian question (II):<br>Letter dated 29 May 1958 from the representative of Tunisia to the President of the Security Council concerning: " Complaint by Tunisia in respect of acts of armed aggression committed against it since May 1958 by the French military forces stationed in its territory and in Algeria "<br>Letter dated 29 May 1958 from the representative of France to the President of the Security Council concerning: | 819th meeting<br>2 June 1958             | S/4021<br>9 June 1958                       | Statements made by the representatives of France and Tunisia concerning the agreement reached by their Governments<br>826th meeting,<br>18 June 1958          |  |

| Item  | First inclusion<br>in the agenda  | First entry in<br>Summary Statement | Last action of the<br>Council as of<br>31 December 1958  | Final entry in<br>Summary Statement as<br>of 31 December 1958 |
|---|-----------------------------------|-------------------------------------|--|---|
| (a) "The complaint brought by France against Tunisia on 14 February 1958 (document S/3954)"   |                                   |                                     |  |   |
| (b) "The situation arising out of the disruption, by Tunisia, of the <i>modus vivendi</i> which had been established since February 1958 with regard to the stationing of French troops at certain points in Tunisian territory"                  |                                   |                                     |  |   |
| 83. Letter dated 17 July 1958 from the representative of Jordan addressed to the President of the Security Council concerning: "Complaint by the Hashemite Kingdom of Jordan of interference in its domestic affairs by the United Arab Republic" | 831st meeting<br>17 July 1958     | S/4061<br>21 July 1958              | Agreed to consider simultaneously the complaints submitted by Lebanon and Jordan<br>17 July 1958                                   |   |
| 84. The date of election to fill a vacancy in the International Court of Justice  | 840th meeting<br>25 November 1958 | S/4120<br>1 December 1958           | Adopted resolution unanimously<br>840th meeting,<br>25 November 1958   | S/4120<br>1 December 1958                                     |
| 85. Admission of new Members. Republic of Guinea  | 842nd meeting<br>9 December 1958  | S/4135<br>16 December 1958          | Recommended<br>842nd meeting,<br>9 December 1958   | S/4135<br>16 December 1958                                    |
| Republic of Korea   | 842nd meeting<br>9 December 1958  | S/4135<br>16 December 1958          | Rejected USSR amendments (S/4132) to joint draft resolution (S/4129/Rev.1)<br>Not recommended<br>843rd meeting,<br>9 December 1958 |   |
| Viet-Nam  | 842nd meeting<br>9 December 1958  | S/4135<br>16 December 1958          | Not recommended<br>843rd meeting,<br>9 December 1958   |   |

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

### CASE 19

At the 778th meeting on 20 May 1957, the provisional agenda of the Council included the letter<sup>73</sup> dated 15 May 1957 from the representative of France addressed to the President of the Security Council relating to the Suez Canal (item 68 of the list of matters of which the Security Council is seized). In connexion with the adoption of the agenda, the representative of

the USSR declared that his delegation could not support the request to reopen the discussion of the Suez Canal question in the Security Council. His reasons were that the Declaration concerning the Suez Canal and the arrangements for its operation made by the Egyptian Government on 24 April 1957 was in accord with the Convention of 1888 and the Charter of the United Nations and reflected the principles endorsed in the Security Council's resolution of 13 October 1956. The document had been registered with the United Nations by the Egyptian Government and had acquired the status of an international instrument. Discussion at the 776th and 777th meetings of the Council had shown that the Declaration constituted a fair and reasonable

<sup>73</sup> S/3829, O.R., 12th year, Suppl. for Apr.-June 1957, pp. 20-21.

basis for the settlement of the question, a conclusion confirmed by subsequent events. In these circumstances, the USSR delegation felt that a new discussion could lead only to complications which would be undesirable from the point of view of peace.

The representative of the United Kingdom observed that at the end of the 777th meeting he had reserved his rights to speak again more fully at a subsequent meeting of the Council. It would be clear from this that it was far from being the view of his delegation that the Egyptian Declaration closed the question of the Suez Canal.

The agenda was adopted<sup>74</sup> by 10 votes in favour and none against, with 1 abstention.

Discussion continued at the 779th meeting, 21 May 1957, at the conclusion of which the President (United States), in summing up the discussion, made the following statement:

"These comments reflect continuing doubts on the part of a number of members regarding the Suez Canal system now put into effect by the Egyptian Government, and about which clarification by Egypt is desired.

"The Egyptian Government will presumably wish as soon as possible to examine these points carefully and to consider the concrete steps it can take to remove the doubts which have arisen. Member Governments will undoubtedly be guided in their diplomatic actions and users will be guided in their practical actions by the views that have been expressed here today and by the Egyptian response to the questions which have been raised here. In the meantime the Council will remain seized of the question and will be in a position to meet again when the representative of Egypt has something further to communicate or when other developments make it desirable."

The representative of France, taking note of the President's summing up, added that:

"...considering that a great number of questions have been asked, that they are still unanswered and that we are waiting for them to be answered, I should like it to be clearly understood that the Security Council is still seized of the problem and could reconvene if any Member so desires."

The President replied that the representative of France understood the situation correctly. "The Council does remain seized of the question, the agenda item is still pending and the matter can be raised by any member of the Security Council."<sup>75</sup>

<sup>74</sup> 778th meeting: para. 14.

<sup>75</sup> For texts of relevant statements, see: 778th meeting: USSR, paras. 4-11; United Kingdom, para. 13;

779th meeting: President (United States), paras. 126-127, 129; France, para. 128.

<sup>76</sup> S/3963, *O.R.*, 13th year, *Suppl. for Jan.-Apr. 1958*, pp. 21-22.

## CASE 20

At the 812th meeting on 21 February 1958, in connexion with the letter<sup>76</sup> dated 20 February 1958 from the representative of Sudan, after the Security Council had heard the statements of the representatives of Egypt and Sudan indicating their willingness to settle the matter after the elections of 27 February 1958, the representative of the United States observed that, by the very action of adopting the agenda, the Council had been seized of the question and could always meet again on short notice, should the situation deteriorate.

The President (USSR) declared that the question submitted by the representative of Sudan would remain on the agenda of the Council.<sup>77</sup>

## CASE 21

At the 840th meeting of the Security Council on 25 November 1958, after the Council had concluded its consideration of the item on its agenda, namely, "The date to fill a vacancy in the International Court of Justice," the President (Panama) referred to the following communications: (1) a letter<sup>78</sup> addressed to him on 16 November 1958 by the Minister for Foreign Affairs of Lebanon reporting the resumption of cordial and close relationships with the United Arab Republic and requesting the Security Council to delete the Lebanese complaint from the list of matters of which it was seized; (2) the fifth report<sup>79</sup> of the United Nations Observation Group in Lebanon setting forth the conclusion that the task of the Group under the resolution of 11 June 1958 might be regarded as completed and recommending that the withdrawal of the Group should be undertaken; and (3) a letter<sup>80</sup> from the Secretary-General of 17 November 1958 stating that in view of the two foregoing communications, he had instructed the Group to present, in consultation with the Government of Lebanon, a detailed plan for the withdrawal, and adding that he considered the task of the Group as completed and his remaining duty under the Security Council resolution as covering only the necessary measures for the liquidation of the operation.

The President declared that he had engaged in consultation with members of the Council who appeared to agree to the deletion of the Lebanese complaint from the list of matters of which the Council was seized, and to the liquidation of the operation of the United Nations Observation Group in Lebanon. In the absence of objection, he would place on the record that the Council had agreed to such deletion, with the understanding that the Secretary-General would inform the General Assembly under his mandate contained in resolution 1237 (ES-3) of 21 August 1958.

It was so decided.

<sup>77</sup> For texts of relevant statements, see: 812th meeting: President (USSR), para. 81; Japan, para. 58; United Kingdom, para. 61; United States, para. 54.

<sup>78</sup> S/4113.

<sup>79</sup> S/4114.

<sup>80</sup> S/4115.

**Chapter III**

**PARTICIPATION IN THE PROCEEDINGS OF THE  
SECURITY COUNCIL**

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## INTRODUCTORY NOTE

As indicated previously in the *Repertoire*, Articles 31 and 32 of the Charter and rules 37 and 39 of the provisional rules of procedure provide for invitations to non-members of the Security Council in the following circumstances: (1) where a Member of the United Nations brings a dispute or a situation to the attention of the Security Council in accordance with Article 35 (1) (rule 37); (2) where a Member of the United Nations, or a State which is not a Member of the United Nations, is a party to a dispute (Article 32); (3) where the interests of a Member of the United Nations are specially affected (Article 31 and rule 37); and (4) where members of the Secretariat or other persons are invited to supply information or give other assistance (rule 39). Of these four categories, only category (2) involves an obligation of the Council.

The classification of the material relevant to par-

ticipation in the proceedings of the Security Council is intended to indicate the varieties of practice to which the Council has taken recourse. The reasons why the material is not arranged within a classification derived directly from Articles 31 and 32 and rules 37 and 39 have been set forth in the *Repertoire*, 1946-1951.

Part I presents a summary of the proceedings wherein proposals to extend an invitation to participate in the discussion have been made, with special emphasis on consideration of the basis on which the invitation might be deemed to rest. There has been no discussion of the terms and provisions of Article 32 during the period under review.

Part III includes summary accounts of procedures relating to the participation of invited representatives after the Council has decided to extend an invitation.

### Part I

#### BASIS OF INVITATIONS TO PARTICIPATE

##### NOTE

Part I includes all cases in which proposals to extend an invitation to participate in the discussion have been put forward in the Security Council. The case histories in this part are grouped into invitations to representatives of subsidiary organs or other United Nations organs (B); and invitations to Members of the United Nations (C). During the period under review, the Council extended no other invitations.

As previously in the *Repertoire*, the arrangement of section C derives from rule 37 of the provisional rules of procedure. Section C.1.a. covers those occasions on which Members submitting matters under Article 35 (1) have been invited to participate without vote in the discussion.<sup>1</sup>

Section C.2. includes instances of invitation, under Article 31, to a Member State when the interests of that Member were considered by the Council to be specially affected. In extending these invitations, the Council, as earlier, has made no distinction between a complaint involving a dispute within the meaning of Article 32, or a situation, or a matter not of such nature. Section C.2., therefore, also includes all cases of invitations to Member States against which a complaint was brought before the Council. Fourteen occasions<sup>2</sup> on which members were invited to participate without vote in the Council discussions are summarized. In one of these instances, the invited representative never took

his place at the Council table because the agenda item in connexion with which the invitation was extended was not discussed at subsequent meetings of the Council.<sup>3</sup> Under section C.2.b., a new sub-heading will be found an account<sup>4</sup> of an occasion when the Council, having considered requests from several Member States to participate in the discussion, decided to invite them to submit their views in written statements for circulation by the President to the Council members. In this instance, one Member State, in requesting permission to participate in the discussion,<sup>5</sup> undertook to limit its intervention to the aspect of the problems which arose from a specific resolution of the Security Council.

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

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

###### CASE I

The following was the only occasion during the period under review on which the Security Council invited one of its subsidiary organs to the table to give information required in connexion with consideration of a report from the subsidiary organ:

*The United Nations representative for India and Pakistan*  
At the 774th meeting on 21 February 1957.

<sup>1</sup> Cases 2-8.

<sup>2</sup> Cases 9-22.

<sup>3</sup> Case 14.

<sup>4</sup> Case 23.

<sup>5</sup> S/3663, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 1.

### C. IN THE CASE OF MEMBERS OF THE UNITED NATIONS

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

##### a. A matter in accordance with Article 35 (1) of the Charter

#### CASE 2

At the 707th meeting on 16 December 1955, in connexion with the Palestine question, the Council considered a complaint by Syria against Israel concerning incidents in the area east of Lake Tiberias.<sup>6</sup>

**Decision:** *The President (New Zealand) invited, without objection, the representative of Syria to the Council table.*<sup>7</sup>

#### CASE 3

At the 744th meeting on 19 October 1956, in connexion with the Palestine question, the Security Council considered two complaints, one by Jordan against Israel concerning the incidents of Qalqilya and Husan, the other by Israel against Jordan concerning violations of the provisions of the Jordan-Israel General Armistice Agreement.<sup>8</sup>

**Decision:** *The President (France) invited, without objection, the representatives of Israel and Jordan to the Council table.*<sup>9</sup>

#### CASE 4

At the 761st meeting on 16 January 1957, in connexion with the India-Pakistan question, the Security Council considered the letter<sup>10</sup> dated 2 January 1957 from the Minister for Foreign Affairs of Pakistan.

**Decision:** *The President (Philippines) invited, without objection, the representative of Pakistan to the Council table.*<sup>11</sup>

#### CASE 5

At the 780th meeting on 23 May 1957, in connexion with the Palestine question, the Security Council considered a complaint by Syria against Israel concerning the construction of a bridge in the demilitarized zone established by the General Armistice Agreement between Israel and Syria.<sup>12</sup>

**Decision:** *The President (United States) invited,*

<sup>6</sup> S/3505, O.R., 10th year, Suppl. for Oct.-Dec. 1955, p. 21.

<sup>7</sup> 707th meeting: preceding para. 1. For invitation to Israel, see Case 9.

<sup>8</sup> S/3678, S/3683, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 53, 60.

<sup>9</sup> 744th meeting: preceding para. 2.

<sup>10</sup> S/3767, O.R., 12th year, Suppl. for Jan.-Mar. 1957, pp. 1-3.

<sup>11</sup> 761st meeting: para. 4. For invitation to India, see Case 16.

<sup>12</sup> S/3827, O.R., 12th year, Suppl. for Apr.-June 1957, pp. 19-20.

*without objection, the representative of Syria to the Council table.*<sup>13</sup>

#### CASE 6

At the 787th meeting on 6 September 1957, in connexion with the Palestine question, the Security Council considered complaints by Jordan against Israel and by Israel against Jordan concerning violations of the provisions of the Jordan-Israel General Armistice Agreement.<sup>14</sup>

**Decision:** *The President (Cuba) invited, without objection, the representatives of Israel and Jordan to the Council table.*<sup>15</sup>

#### CASE 7

At the 806th meeting on 22 November 1957, the agenda of the Security Council, adopted without discussion, included, as item 2, the Palestine question and, as sub-items thereunder: (a) the letter<sup>16</sup> dated 4 September 1957 from the representative of Jordan concerning a violation by Israel of the General Armistice Agreement in the area between the demarcation lines in Jerusalem, and (b) the letter<sup>17</sup> dated 15 September 1957 from the acting representative of Israel regarding violations by Jordan of the provisions of the General Armistice Agreement and, in particular, of article VIII thereof.

**Decision:** *The President (Iraq) invited, without objection, the representatives of Israel and Jordan to the Council table.*<sup>18</sup>

#### CASE 8

At the 812th meeting on 21 February 1958, the Security Council considered the letter<sup>19</sup> dated 20 February 1958 from the representative of Sudan addressed to the Secretary-General concerning the situation on the Sudan-Egypt border.

**Decision:** *The President (USSR) invited, without objection, the representative of Sudan to the Council table.*<sup>20</sup>

<sup>13</sup> 780th meeting: para. 1. For invitation to Israel, see Case 17.

<sup>14</sup> S/3878, O.R., 12th year, Suppl. for July-Sept. 1957, pp. 33-34; S/3883, *ibid.*, pp. 35-36.

<sup>15</sup> 787th meeting: para. 27.

<sup>16</sup> S/3878, O.R., 12th year, Suppl. for July-Sept. 1957, pp. 33-34; S/3892, *ibid.*, pp. 38-43; S/3892/Add.1 and 2, O.R., 12th year, Suppl. for Oct.-Dec. 1957, pp. 1-2.

<sup>17</sup> S/3883, O.R., 12th year, Suppl. for July-Sept. 1957, pp. 35-36; S/3913, O.R., 12th year, Suppl. for Oct.-Dec. 1957, pp. 12-17.

<sup>18</sup> 806th meeting: para. 6. Upon the proposal of the President (Iraq), the Council decided that these complaints would be considered consecutively. See chapter II, Case 13.

<sup>19</sup> S/3963, O.R., 13th year, Suppl. for Jan.-Mar. 1958, pp. 21-22.

<sup>20</sup> 812th meeting: para. 1. For invitation to Egypt, see Case 21.

**\*\*b. A matter not being either a dispute or a situation**

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

**a. To participate without vote in the discussions**

**CASE 9**

At the 707th meeting on 16 December 1955, in connexion with the Palestine question, the Security Council considered a complaint by Syria against Israel concerning incidents in the area east of Lake Tiberias.<sup>21</sup>

**Decision:** *The President (New Zealand) invited, without objection, the representative of Israel to the Council table.*<sup>22</sup>

**CASE 10**

At the 717th meeting on 26 March 1956, in connexion with the Palestine question, the Security Council considered the letter<sup>23</sup> dated 20 March 1956 from the permanent representative of the United States with special reference to status of compliance given to the General Armistice Agreements and the resolutions of the Security Council adopted during the past year.

**Decision:** *The President (United Kingdom) invited, without objection, the representatives of Egypt, Israel, Jordan, Lebanon and Syria to the Council Table.*<sup>24</sup>

**CASE 11**

At the 734th meeting on 26 September 1956, the provisional agenda included: as item 2, a complaint by France and the United Kingdom against Egypt; and, as item 3, a complaint by Egypt against France and the United Kingdom.

The representatives of France and the United Kingdom proposed that the representative of Egypt be invited to participate in the proceedings of the Council since Egypt's interests would be specially affected.

After the adoption of the agenda, the President (Cuba) inquired if there was any objection to inviting the representative of Egypt to the Council table at the appropriate time.<sup>25</sup>

**Decision:** *At the 735th meeting on 5 October 1956, after the adoption of the agenda, the President (France)*

<sup>21</sup> S/3505, O.R., 10th year, Suppl. for Oct.-Dec. 1955, p. 21.

<sup>22</sup> 707th meeting: Preceding para. 1. For invitation to Syria, see Case 2.

<sup>23</sup> S/3561, O.R., 11th year, Suppl. for Jan.-Mar. 1956, p. 20.

<sup>24</sup> 717th meeting: preceding para. 4. At the 723rd meeting on 29 May 1956, when the Security Council considered the Secretary-General's report, pursuant to the Council's resolution of 4 April 1956, the President (Yugoslavia), in inviting the representatives of Egypt, Israel, Jordan, Lebanon and Syria to the Council table, referred to the requests which had been made by the Governments to participate in the discussion (723rd meeting: para 4). For communications requesting participation, see S/3565 (Egypt); S/3566 (Jordan); S/3567 (Lebanon); S/3568 (Syria); S/3569 (Israel).

<sup>25</sup> For texts of relevant statements, see:

734th meeting: President (Cuba), para. 146; France, para. 33; United Kingdom, para. 23.

*invited, without objection, the representative of Egypt to the Council table.*<sup>26</sup>

**CASE 12**

At the 744th meeting on 19 October 1956, in connexion with the Palestine question, the Security Council considered, as sub-item (a), the letter dated 15 October 1956 from the representative of Jordan containing a complaint concerning the incidents of Qualqilya and Husan; and, as sub-item (b), the letter dated 17 October 1956 from the representative of Israel containing a complaint concerning violations by Jordan of the General Armistice Agreement and of the cease-fire pledge made to the Secretary-General on 26 April 1956.<sup>27</sup>

**Decision:** *The President (France) invited, without objection, the representatives of Israel and Jordan to the Council table.*<sup>28</sup>

**CASE 13**

At the 746th meeting on 28 October 1956, in connexion with the letter<sup>29</sup> dated 27 October 1956 from the representatives of France, the United Kingdom and the United States concerning the situation in Hungary, the Council considered the letter<sup>30</sup> dated 28 October 1956 from the representative of Hungary requesting permission to participate in the discussion of the Council regarding the item.

**Decision:** *The President (France) invited, without objection, the representative of Hungary to the Council table.*<sup>31</sup>

**CASE 14**

At the 747th meeting on 29 October 1956, in connexion with the letter<sup>32</sup> dated 25 October 1956 from the representative of France with a complaint concerning military assistance rendered by the Egyptian Government to the rebels in Algeria, after the adoption of the agenda, the President (France) stated that he supposed that all the members of the Council would agree that the representative of Egypt should be invited to participate in the discussion. He further stated that, in order to give the representative of Egypt time to make his preparations, the meeting of the Council should be adjourned.<sup>33</sup>

**Decision:** *In the absence of any objection, the proposal of the President was adopted without a vote.*<sup>34</sup>

<sup>26</sup> 735th meeting: para. 15.

<sup>27</sup> S/3678, S 3682, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 53, 60.

<sup>28</sup> 744th meeting: preceding para. 2.

<sup>29</sup> S/3690, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 100.

<sup>30</sup> S/3694, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 103.

<sup>31</sup> 746th meeting: paras. 36-37.

<sup>32</sup> S/3689 and Corr.1, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 98-100.

<sup>33</sup> 747th meeting: paras. 10-11.

<sup>34</sup> 747th meeting: para. 11.



## CASE 15

At the 748th meeting on 30 October 1956, the Council considered the letter<sup>35</sup> dated 29 October 1956 from the representative of the United States concerning the Palestine question, with special reference to steps for the immediate cessation of the military action of Israel in Egypt.

**Decision:** *The President (France) invited, without objection, the representatives of Egypt and Israel to the Council table.*<sup>36</sup>

## CASE 16

At the 761st meeting on 16 January 1957 in connexion with the India-Pakistan question, the Security Council considered the letter<sup>37</sup> dated 2 January 1957 from the Minister for Foreign Affairs of Pakistan.

**Decision:** *The President (Philippines) invited, without objection, the representative of India to the Council table.*<sup>38</sup>

## CASE 17

At the 780th meeting on 23 May 1957, in connexion with the Palestine question, the Security Council considered a complaint by Syria against Israel concerning the construction of a bridge in the demilitarized zone established by the General Armistice Agreement between Israel and Syria.<sup>39</sup>

**Decision:** *The President (United States) invited, without objection, the representative of Israel to the Council table.*<sup>40</sup>

## CASE 18

At the 787th meeting on 6 September 1957, in connexion with the Palestine question, the Security Council considered complaints by Jordan against Israel and by Israel against Jordan concerning violations of the provisions of the Jordan-Israel General Armistice Agreement.<sup>41</sup>

**Decision:** *The President (Cuba) invited, without objection, the representatives of Israel and Jordan to the Council table.*<sup>42</sup>

## CASE 19

At the 806th meeting on 22 November 1957, the agenda of the Security Council adopted without dis-

<sup>35</sup> S/3706, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 108.

<sup>36</sup> 748th meeting: preceding para. 3.

<sup>37</sup> S/3767, O.R., 12th year, Suppl. for Jan.-Mar. 1957, pp. 1-3.

<sup>38</sup> 761st meeting: para. 4.

<sup>39</sup> S/3827, O.R., 12th year, Suppl. for Apr.-June 1957, pp. 19-20.

<sup>40</sup> 780th meeting: para. 1. For invitation to Syria, see Case 5.

<sup>41</sup> S/3878, O.R., 12th year, Suppl. for July-Sept. 1957, pp. 33-34; S/3883, *ibid.*, pp. 35-36.

<sup>42</sup> 787th meeting: para. 27.

cussions included, as item 2, the Palestine question and, as sub-items thereunder: (a) the letter<sup>43</sup> dated 4 September 1957 from the representative of Jordan concerning a violation by Israel of the General Armistice Agreement in the area between the demarcation lines in Jerusalem; and (b) the letter<sup>44</sup> dated 5 September 1957 from the acting representative of Israel regarding violations by Jordan of the provisions of the General Armistice Agreement and, in particular, of article VIII thereof.

**Decision:** *The President (Iraq) invited, without objection, the representatives of Israel and Jordan to the Council table.*<sup>45</sup>

## CASE 20

At the 811th meeting on 18 February 1958, the provisional agenda of the Security Council included, as item 2, a complaint by Tunisia against France and, as item 3, a complaint by France against Tunisia.

After the adoption of the agenda, the President (USSR) drew the attention of the Council to the letter<sup>46</sup> dated 13 February 1958 from the representative of Tunisia requesting permission to participate in the discussion of the Council regarding the item on the agenda.<sup>47</sup>

**Decision:** *In the absence of any objection, the President invited the representative of Tunisia to the Council table.*<sup>48</sup>

## CASE 21

At the 812th meeting on 21 February 1958, the Security Council considered the letter<sup>49</sup> dated 20 February 1958 from the representative of Sudan addressed to the Secretary-General concerning the situation in the Sudan-Egypt border.

**Decision:** *The President (USSR) invited, without objection, the representative of Egypt to the Council table.*<sup>50</sup>

## CASE 22

At the 818th meeting on 27 May 1958, the Security Council considered a letter<sup>51</sup> dated 22 May 1958 from

<sup>43</sup> S/3878, O.R., 12th year, Suppl. for July-Sept. 1957, pp. 33-34; S/3892, O.R., 12th year, Suppl. for July-Sept. 1957, pp. 38-43; S/3892/Add.1 and 2, O.R., 12th year, Suppl. for Oct.-Dec. 1957, pp. 1-2.

<sup>44</sup> S/3883, O.R., 12th year, Suppl. for July-Sept. 1957, pp. 33-34.

<sup>45</sup> 806th meeting: para. 6. Upon the proposal of the President (Iraq), the Council decided that these complaints would be considered consecutively. See chapter II.

<sup>46</sup> S/3952, O.R., 13th year, Suppl. for Jan.-Mar. 1958, pp. 13-14.

<sup>47</sup> 811th meeting: para. 5.

<sup>48</sup> 811th meeting: para. 5.

<sup>49</sup> S/3963, O.R., 13th year, Suppl. for Jan.-Mar. 1958, pp. 21-22.

<sup>50</sup> 812th meeting: para. 1. For invitation to Sudan, see Case 8.

<sup>51</sup> S/4007.

the representative of Lebanon addressed to the President of the Security Council concerning "Complaint by Lebanon in respect of a situation arising from the intervention of the United Arab Republic in the internal affairs of Lebanon, the continuance of which is likely to endanger the maintenance of international peace and security."

**Decision:** *The President (Canada) invited, without objection, the representatives of Lebanon and the United Arab Republic to the Council table.*<sup>52</sup>

#### b. To submit written statements

##### CASE 23

At the 734th meeting on 26 September 1956, when the Security Council considered a complaint by France and the United Kingdom against Egypt, the President (Cuba) drew the attention of the Council to a letter<sup>53</sup> dated 26 September 1956 from the representative of Israel requesting permission to participate in the discussion of the Council regarding the item on the agenda.

The representative of Australia stated that, since the members of the Council had not had sufficient time to give the matter consideration, the question of an invitation to Israel should be deferred until the next meeting of the Council.

The representative of Iran maintained that, in the present case, the interests of Israel were not specially affected within the meaning of the Charter. Because the question at issue was highly specialized and, by its very nature, complicated, he did not consider that the Council should complicate it still further. If the representative of Israel was invited to participate, other interested Governments might also wish to be represented. The spirit of the Charter was that only the members of the Security Council should take part in the discussions of the Council and that, as an exceptional measure, when the interests of another Member of the United Nations were genuinely affected, that Member should be given the right to participate in the Council's proceedings. He did not believe that either legal or political considerations, or considerations of expediency provided any grounds for granting Israel's request.<sup>54</sup>

**Decision:** *In the absence of any objections, the proposal of the representative of Australia was adopted without a vote.*<sup>55</sup>

At the 735th meeting on 5 October 1956, the President (France) brought to the attention of the Security Council the letter<sup>56</sup> dated 3 October 1956 from the representative of Israel requesting permission to participate in the discussion, and expressing the intention of the Israel delegation to limit its intervention in the

debate solely to those aspects of the problems which arose from the Council's resolution of 1 September 1951. The letter recalled that the resolution had concluded a Council discussion on this question in which Israel and Egypt had been invited to participate.

At the same time, the President referred to a similar communication<sup>57</sup> from the representatives of Iraq, Jordan, Lebanon, Libya, Saudi Arabia, Syria and Yemen, requesting permission to participate in the discussion of the item.

The representative of Yugoslavia maintained that the Council should not take an immediate decision on either of these requests. He formally proposed that any decisions thereon should be postponed until later.

In reply to a question by the representative of Cuba as to how long the consideration of the requests should be postponed, the President stated that the Council might take any decision it thought fit at any time.<sup>58</sup>

**Decision:** *In the absence of any objection, the proposal of the representative of Yugoslavia was adopted without a vote.*<sup>59</sup>

At the 742nd meeting on 13 October 1956, the representative of the United States stated that at a previous private meeting of the Security Council, he had suggested that the representative of Israel and the representatives of the Arab States who had requested to be heard should be invited to present their views at a meeting of the Council on the following day. Although it had been the prevailing view in the Council that this would not be convenient, no one denied the right in principle of those Governments to be heard. Since their interest in the matter was obvious, the United States representative suggested that the Council leave open the question of hearing the above-named representatives for consideration at a later stage in the proceedings.

He suggested that in the meantime the Council invite them to present their Governments' views to the Security Council in written statements to be circulated by the President.<sup>60</sup>

**Decision:** *In the absence of any objection, the proposal of the representative of the United States was adopted without a vote.*<sup>61</sup>

#### \*\*3. Invitations denied

##### \*\*D. In the case of non-member States and other invitations

<sup>52</sup> S/3664, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 1-2.

<sup>53</sup> For texts of relevant statements, see:

735th meeting: President (France), paras. 7-8, 12, 14; Cuba, para. 11; Yugoslavia, paras. 9-10, 13.

<sup>54</sup> 735th meeting: para. 14.

<sup>55</sup> 742nd meeting: paras. 3-5.

<sup>56</sup> 742nd meeting: para. 6. In accordance with this decision, written statements were submitted to the Security Council by Israel (S/3673, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 21-38); Jordan (S/3680, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 55-59); Lebanon (S/3683, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 61-87); Libya (S/3684, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 88-89); Saudi Arabia (S/3676, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 48-52); Syria (S/3674, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 38-47); Yemen (S/3681, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 59-60).

<sup>57</sup> 818th meeting: para. 7.

<sup>58</sup> S/3657, O.R., 11th year, Suppl. for July-Sept. 1956, p. 48.

<sup>59</sup> For texts of relevant statements, see:

734th meeting: President (Cuba), paras. 145, 147; Australia, paras. 148-149; Iran, paras. 150-153.

<sup>60</sup> 734th meeting: para. 154.

<sup>61</sup> S/3663, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 1.

## Part II

### \*\*CONSIDERATION OF THE TERMS AND PROVISIONS OF ARTICLE 32 OF THE CHARTER

## Part III

### PROCEDURES RELATING TO PARTICIPATION OF INVITED REPRESENTATIVES

#### NOTE

Part III is concerned with procedures relating to the participation of invited representatives after an invitation has been extended.

Section A deals with the related questions of the opportune moment for the Council to extend invitations and the timing of initial hearing of the invited representative. The section includes two instances<sup>62</sup> in which the question as to when an invited representative should make his initial statement was decided by the President in accordance with the established practice of the Council. On another occasion<sup>63</sup> discussion took place on whether the representative of an invited Member could be seated at the Council table but not permitted to speak pending the verification of his credentials.

Section B includes three instances<sup>64</sup> illustrating the duration of the participation by invited representatives. On one occasion,<sup>65</sup> when the agenda included two items, one of the invited representatives withdrew after the Council had completed its consideration of the item in connexion with which he had been invited. It has been the practice of the President, when consideration of a question has extended over several meetings, to renew the invitation immediately after the adoption of the agenda without comment. During the period under review, the President, in two instances,<sup>66</sup> has extended invitations with a reminder to the Council of its initial decision to extend the invitation to participate.

Section C, concerned with limitations of a procedural nature applicable throughout the process of participation, includes, under sub-section C.1., three instances<sup>67</sup> illustrative of the order in which the invited representatives are called upon to speak. In one instance recorded in section C.2.<sup>68</sup> a member of the Council was called on to speak before an invited representative who had expressed a wish to raise a point or order. Section C.3 includes a case<sup>69</sup> in which a member of the Council requested the Council to vote on a draft resolution submitted by an invited representative.

Section D includes case histories bearing on limitations concerned with those aspects of the proceedings

in which the participation of invited representatives has usually been deemed inappropriate. In these instances invited representatives have indicated awareness of such limitations.<sup>70</sup>

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

##### CASE 24

At the 776th meeting on 26 April 1957, in connexion with the letter<sup>71-72</sup> dated 24 April 1957 from the representative of the United States relating to the Suez Canal, the Security Council resumed consideration of the complaint by France and the United Kingdom against Egypt.

After the initial statement by the representative of the United States, the President (United Kingdom) informed the Council that some members had notified him of their desire to speak. He thought that it would be in accordance with the usual practice of the Council, however, to ask the representative of Egypt whether he wished to make a statement at that stage of the proceedings.<sup>73</sup>

**Decision:** *In the absence of any objection, the President (United Kingdom) called upon the representative of Egypt to speak.*<sup>74</sup>

##### CASE 25

At the 778th meeting on 20 May 1957, in connexion with the letter<sup>75</sup> dated 15 May 1957 from the representative of France relating to the Suez Canal, the Security Council resumed consideration of the complaint by France and the United Kingdom against Egypt.

After the initial statement by the representative of France, the President (United Kingdom) stated:

“With the consent of members who desire to speak at today’s meeting, the Chair now recognizes the representative of Egypt in order that the Council may hear his views.”<sup>76</sup>

<sup>62</sup> Cases 24 and 25.

<sup>63</sup> See chapter I, Case 4.

<sup>64</sup> Cases 26, 27 and 28.

<sup>65</sup> Case 26.

<sup>66</sup> Cases 27 and 28.

<sup>67</sup> Cases 29, 30 and 31.

<sup>68</sup> Case 32.

<sup>69</sup> Case 33.

<sup>70</sup> Cases 34-38.

<sup>71-72</sup> S/3817/Rev.1, O.R., 12th year, Suppl. for Apr.-June 1957, p. 8.

<sup>73</sup> 776th meeting: para. 15.

<sup>74</sup> 776th meeting: para. 15.

<sup>75</sup> S/3829, O.R., 12th year, Suppl. for Apr.-June 1957, pp. 20-21.

<sup>76</sup> 778th meeting: para. 57.

**Decision:** *In the absence of any objection, the President (United Kingdom) called upon the representative of Egypt to speak.*<sup>77</sup>

## B. THE DURATION OF PARTICIPATION

### CASE 26

At the 750th meeting on 30 October 1956, when the Security Council was considering the Palestine question, with special reference to steps for the immediate cessation of the military action of Israel in Egypt, the President (France) stated that he had no other speakers on his list. He therefore considered that the Council had completed its discussion of this item and should proceed to the next item on its agenda.<sup>78</sup>

**Decision:** *The representative of Israel withdrew, and the Council went on to the next item on its agenda.*<sup>79</sup>

### CASE 27

At the 776th meeting on 26 April 1957, in connexion with the letter<sup>80</sup> dated 24 April 1957 from the representative of the United States relating to the Suez Canal, the Council resumed consideration of the complaint by France and the United Kingdom against Egypt.

The President (United Kingdom) recalled that the representative of Egypt had been invited to the Council table during the proceedings of the Council in October 1956 concerning this question. Accordingly, with the consent of the Council, he would invite the representative of Egypt to participate in the deliberations of the Council on this agenda item.<sup>81</sup>

**Decision:** *In the absence of any objection, the President (United Kingdom) invited the representative of Egypt to the Council table.*<sup>82</sup>

### CASE 28

At the 778th meeting on 20 May 1957, in connexion with the letter<sup>83</sup> dated 15 May 1957 from the representative of France relating to the Suez Canal, the Council resumed consideration of the complaint by France and the United Kingdom against Egypt.

The President (United States) recalled that the representative of Egypt had been invited to the Council table during the discussion of that question in October 1956 and April 1957. Accordingly, with the consent of the Council, he would invite the representative of

Egypt to participate in the deliberations of the Council on this agenda item.<sup>84</sup>

**Decision:** *In the absence of any objection, the President invited the representative of Egypt to the Council table.*<sup>85</sup>

## C. LIMITATIONS OF A PROCEDURAL NATURE

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

#### CASE 29

At the 748th meeting on 30 October 1956, in connexion with the Palestine question, with special reference to steps for the immediate cessation of the military action of Israel in Egypt, after the list of speakers had been exhausted, a discussion arose as to whether to hear the representatives of the parties, or to adjourn the meeting until that afternoon. The representative of Egypt \* asked for the floor to make a brief statement.

The President (France) stated that, in accordance with the rules of procedure, he called upon the representative of Iran who had asked to speak.

Following a statement by the representative of Iran, the President called upon the representative of Egypt.<sup>86</sup>

#### CASE 30

At the 749th meeting on 30 October 1956, in connexion with the Palestine question, with special reference to steps for the immediate cessation of the military action of Israel in Egypt, the President (France) reminded the Security Council that the representatives of Egypt and Israel had intimated at the 748th meeting on the same day that they would ask to speak again at the afternoon meeting, but that he had to give priority to members of the Council who had asked for the floor.

At the same meeting, after statements had been made by certain members of the Council, the President stated that since no other member wished to speak at that moment, it remained for the Council to hear the parties as had been agreed at the beginning of the meeting. The President called first upon the representative of Israel, and then on the representative of Egypt, to speak.<sup>87</sup>

#### CASE 31

At the 751st meeting on 31 October 1956, in connexion with the letter<sup>88</sup> dated 30 October 1956 from the representative of Egypt, after statements had been

<sup>77</sup> 778th meeting: para. 57.

<sup>78</sup> 750th meeting: para. 39.

<sup>79</sup> 750th meeting: para. 39.

<sup>80</sup> S/3817/Rev.1, O.R., 12th year, Suppl. for Apr.-June 1957, p. 8.

<sup>81</sup> 776th meeting: para. 4.

<sup>82</sup> 776th meeting: para. 4.

<sup>83</sup> S/3829, O.R., 12th year, Suppl. for Apr.-June 1957, pp. 20-21.

<sup>84</sup> 778th meeting: para. 15.

<sup>85</sup> 778th meeting: para. 15.

<sup>86</sup> For texts of relevant statements, see:

748th meeting: President (France), paras. 54, 59, 61; Egypt \*, para. 60; Iran, para. 62.

<sup>87</sup> For texts of relevant statements, see:

749th meeting: President (France), paras. 1, 32.

<sup>88</sup> S/3712, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 111-112.

made by the Secretary-General and certain members of the Council, the President (France) interrupted the representative of Yugoslavia who had begun to speak, and informed the Council that the Egyptian representative had asked for the floor.

The representative of Egypt \* explained that he had intended to make a brief statement to the Council before the debate began.

The President then asked the representatives of Iran, the United Kingdom and Yugoslavia, who were on his list of speakers, whether they had any objections to the Egyptian representative speaking at that stage.<sup>89</sup>

**Decision:** *In the absence of any objection, the President (France) called upon the representative of Egypt to speak.*<sup>90</sup>

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

### CASE 32

At the 746th meeting on 28 October 1956, in connexion with the letter<sup>91</sup> dated 27 October 1956 from the representatives of France, the United Kingdom and the United States concerning the situation in Hungary, after the representative of Hungary had been invited to the Council table, the President (France) gave the floor to the representative of the United States.

The representative of Hungary \* wished to raise a point of order, but the representative of the United States declined to yield.

The President declared that the representative of Hungary could not take the floor before members of the Council.<sup>92</sup>

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

### CASE 33

At the 710th meeting on 12 January 1956, in connexion with the Palestine question, the Security Council had before it a draft resolution<sup>93</sup> submitted by the representative of Syria who had been invited to participate without vote in the discussion, together with a letter<sup>94</sup> dated 9 January 1956 from the representative of the USSR requesting the President of the Council, in accordance with rule 38 of the rules of procedure, to put the Syrian draft resolution to the vote with certain

amendments included in the text of that letter. The Council also had before it a joint draft resolution<sup>95</sup> submitted by the representatives of France, the United Kingdom and the United States.

The representative of the United Kingdom, speaking in support of the joint draft resolution and referring to the letter from the representative of the USSR, remarked:

"... I am not at all clear about the status of this document. Is it a Soviet proposal? Is it a Syrian proposal? Or is it perhaps a Syrian-Soviet proposal? Nor am I at all certain whether this proposal, whatever its paternity, is strictly speaking in order, according to the rules of procedure of the Council.

"In his letter of 9 January, the Soviet representative cites rule 38 of the rules of procedure as the basis on which he requests that what he calls a draft resolution, in the form set out in his letter, should be put to the vote. If he had requested that the Syrian draft resolution [S/3519] should be put to the vote in the form in which it was presented by the representative of Syria, then of course his request would be well founded on rule 38. But this he does not do. He proposes a series of amendments to the Syrian draft resolution and then requests the Council to put the amended form of the draft resolution to the vote. I question whether such a request is in order under rule 38. I hope that we shall receive some clarification on the parenthood of this rather strange offspring.

"I can, of course, well understand why the Soviet representative wished to amend the Syrian draft resolution in such drastic fashion. That draft resolution was couched in very extreme terms. But if the Soviet representative thought fit to present his own recommendation to the Council in the form of a draft resolution, the more normal procedure would surely have been to submit a draft resolution in his own name."

The representative of the USSR made a statement in support of the Syrian draft resolution and the amendments which his delegation had submitted to the Council.

At the 715th meeting on 19 January 1956, after the Council had given priority to and adopted unanimously the joint draft resolution, the representative of the USSR inquired whether the representative of Syria considered it necessary that a vote be taken on the Syrian draft resolution, as amplified by the USSR delegation.

The representative of Syria \* replied that he would not press for a vote on his draft resolution but that he would prefer it to remain standing in the Security Council until an opportune moment.<sup>96</sup>

<sup>89</sup> For texts of relevant statements, see:

751st meeting: President (France), paras. 18, 20; Egypt \*, para. 19.

<sup>90</sup> 751st meeting: para. 21.

<sup>91</sup> S/3690, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 100.

<sup>92</sup> 746th meeting: paras. 38-41.

<sup>93</sup> S/3519, O.R., 10th year, Suppl. for Oct.-Dec. 1955, pp. 41-42.

<sup>94</sup> S/3528, O.R., 11th year, Suppl. for Jan.-Mar. 1956, p. 1.

<sup>95</sup> S/3530, O.R., 11th year, Suppl. for Jan.-Mar. 1956, p. 2.

<sup>96</sup> For texts of relevant statements, see:

710th meeting: USSR, para. 100; United Kingdom, paras. 43-45;

715th meeting: Syria \*, para. 167; USSR, para. 164.

#### D. LIMITATIONS ON MATTERS TO BE DISCUSSED BY INVITED REPRESENTATIVES

##### \*\*1. Adoption of the agenda

##### \*\*2. Extension of invitations

##### \*\*3. Postponement of consideration of a question

#### 4. Other matters

##### CASE 34

At the 749th meeting on 30 October 1956, when the Council was considering the letter<sup>97</sup> dated 29 October 1956 from the representative of the United States concerning the Palestine question, with special reference to steps for the immediate cessation of the military action of Israel in Egypt, after the President (France) had made a statement as the representative of France, the representative of Egypt\*, who had been invited to participate in the deliberations of the Council, stated:

"... I regret that you should have taken advantage of your position as President of the Security Council to discuss matters which have nothing to do with the item under discussion... It would have been easy for me to do the same; but I prefer not to do so, and I protest against your conduct as President of the Council."<sup>98</sup>

##### CASE 35

At the 761st meeting on 16 January 1957, in connexion with the India-Pakistan question, the representative of India\* stated that his delegation would need a reasonable time in which to obtain the necessary instructions and to verify the quotations contained in the statement which the representative of Pakistan had made before the Council. In reply to a question by the President (Philippines) whether a meeting be held on the afternoon of 18 January 1957 would adequate to him, the representative of India said that it would be physically impossible for him to be prepared for a meeting by that date.

After further discussion, in which 22 and 23 January 1957 were proposed as possible dates for the next meeting of the Council, the representative of India stated that he had made no suggestion to the Council as to the date of its next meeting. The Indian delegation had participated at the meeting under Article 32 of the Charter, and it was for the Security Council itself to decide on the date.<sup>99</sup>

##### CASE 36

At the 763rd meeting on 23 January 1957, in connexion with the India-Pakistan question, the President

<sup>97</sup> S/3706, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 108.

<sup>98</sup> For texts of relevant statements, see:

749th meeting: President (France), paras. 152-177; Egypt\*, para. 184.

<sup>99</sup> For texts of relevant statements, see:

761st meeting: President (Philippines), para. 126; Australia, paras. 135-136; Colombia, para. 139; India\*, paras. 127, 148.

(Philippines) asked the representative of India how much more time he needed in order to finish his statement.

The representative of India\* believed that one further meeting would be sufficient.

The President then stated that he thought the members of the Council would be willing to continue for another hour.

The representative of India replied that he would not be able to finish his statement in that time and he would have considerable personal difficulty in continuing for another two hours.

The President suggested that the Council adjourn, then resume at 8.30 p.m. and continue until the representative of India had completed his statement. He asked whether the Council agreed to his proposal.

The representative of the USSR proposed that the Council meet on the following day.

The representative of India asked whether he was entitled to speak on this question, the President replied that the decision was one for the Council to make.

The representative of India then stated that when he was asked, under Article 32 of the Charter, to participate in the discussion, that participation had to be physically possible.

After the President had agreed to hear his views, the representative of India remarked that there appeared to be no reason why the Council must conclude its consideration of the matter that night. He hoped, therefore, that the Council would not have a night meeting.

Following an expression of support by the representative of Cuba for the position of the representative of India, the President observed that the Council had before it a proposal by the representative of the USSR to continue the meeting on the following day.<sup>100</sup>

**Decision:** *In the absence of any objection, the Council so decided.*<sup>101</sup>

##### CASE 37

At the 774th meeting on 21 February 1957, in connexion with the India-Pakistan question the President (Sweden) called upon the representative of Pakistan to speak.

The President then called upon the representative of India who requested a brief recess to permit consideration of the statement made by the representative of Pakistan.

The representatives of Colombia and the Philippines suggested that the President request the representatives of India and Pakistan to limit themselves to observations on the text of the draft resolution. The

<sup>100</sup> For texts of relevant statements, see:

763rd meeting: President (Philippines), paras. 202, 204, 206, 208, 210, 212, 216; Cuba, paras. 214-215; India\*, paras. 203, 205, 209, 211, 213; USSR, para. 207.

<sup>101</sup> 763rd meeting: para. 216.

representative of India having indicated that such a request would come too late, the representative of the Philippines, on a point of order, observed that the discussion of this matter should be limited to members of the Council.

The Council recessed in accordance with the request of the representative of India. Upon resumption of the meeting the President requested the representative of India to take into consideration the observations of the representatives of Colombia and the Philippines.<sup>102</sup>

#### CASE 38

At the 779th meeting on 21 May 1957, when the Council concluded its consideration of the letter<sup>103</sup> dated

<sup>102</sup> For texts of relevant statements, see :

774th meeting: President (Sweden), para. 25; Colombia, paras. 18-19; India \*, para. 22; Philippines, paras. 20-23.

15 May 1957 from the representative of France relating to the Suez Canal, the President (United States) summarized the opinions that had been expressed in the Council during the discussion of this agenda item.

The representative of Egypt \*, who had been invited to participate in the deliberations of the Council, stated :

“Although Egypt is not a member of the Security Council . . . I should like to make some reservations, on behalf of my delegation, with regard to the summing up of the discussion which the President has just made.”<sup>104</sup>

<sup>103</sup> S/3829, *O.R.*, 12th year, *Suppl. for Apr.-June 1957*, pp. 20-21.

<sup>104</sup> For texts of relevant statements, see :

779th meeting: President (United States), paras. 115-127; Egypt \*, para. 133.

## **Chapter IV**

### **VOTING**



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## INTRODUCTORY NOTE

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

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

During the period under review there has been no discussion relating to rule 40 of the provisional rules of procedure. Material relating to voting in connexion with the election of judges under Article 10 of the Statute of the International Court of Justice is included in chapter VI, part I, section D. Chapter VII, parts I and V, includes material on the voting procedure employed by the Council in connexion with applications for admission to membership in the United Nations.

As noted previously, the majority of occasions on which the Council has voted afford no indication as to the attitude of the Council regarding the procedural or non-procedural character of the matter voted upon. Where a decision has been arrived at by a unanimous vote, or with all permanent members voting in favour of the proposal, no indication of the view of the Council as to the procedural or non-procedural nature of the matter can be obtained from the vote in such a case. Nor can any indication be obtained from the cases where the proposal, having been put to the vote, has failed to obtain seven votes in its favour.

Part I, section A, sets out those instances wherein the adoption of a proposal, obtained through seven or

more votes, with one or more permanent members casting a negative vote, indicated the procedural character of the decision. While cases in this section have been grouped under headings derived from the subject matter dealt with in the decisions, the headings do not constitute general propositions as to the procedural character of future proposals which might be deemed to fall under them. Section A includes a new heading (A.9) for the two occasions<sup>1</sup> when decisions to convene an emergency special session of the General Assembly were adopted by the Council, notwithstanding negative votes cast by one or more of its permanent members. Since these proceedings also involve the question of the relations of the Security Council with the General Assembly, further treatment of the matter will be found in chapter VI, part I, section A.

Part I, section B, includes those instances in which the rejection of a proposal, which had obtained seven or more votes with one or more permanent members casting a negative vote, indicated the non-procedural character of the matter under consideration. During the period under review there has been no discussion in the Security Council of the procedural or non-procedural character of the matters in respect of which decisions were to be taken; the entries in this section are therefore restricted to a reference whereby the draft resolution or proposal and the vote thereon may be identified in the record of decisions in other parts of this *Supplement*.

There have been no occasions during the period under review of abstention by a permanent member in accordance with Article 27(3). Part III, section B, lists those occasions on which a permanent member has abstained considering that no affirmative decision could have been taken had he voted against the proposal.

<sup>1</sup> Cases 5 and 6.

### Part I

## PROCEDURAL AND NON-PROCEDURAL MATTERS

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

#### 1. Inclusion of items in the agenda

##### CASES 1-2

On the following occasions an item has been included in the agenda by a vote of the Security Council, notwithstanding the negative vote of a permanent member:

#### Case 1

At the 746th and 752nd meetings on 28 October and 2 November 1956 the situation in Hungary.<sup>2</sup>

<sup>2</sup> 746th meeting: para. 35; 752nd meeting: para. 6. Also, at the 753rd meeting, para. 3, and 754th meeting, para. 1, the President (France) stated that the objections to the adoption of the agenda raised at the 746th meeting were noted. See chapter II, Case 7.

## Case 2

At the 842nd meeting on 9 December 1958, two letters dated 8 December 1958 from the representative of the United States of America addressed to the President of the Security Council.<sup>3</sup>

**\*\*2. Order of items on the agenda****\*\*3. Deferment of consideration of items on the agenda****\*\*4. Removal of an item from the list of matters of which the Security Council is seized****\*\*5. Rulings of the President of the Security Council****6. Adjournment of a meeting**

## CASE 3

On the following occasion, a motion to adjourn was adopted by a vote of the Security Council, notwithstanding the negative vote of a permanent member:

At the 749th meeting on 30 October 1956, in connexion with the Palestine question, with special reference to steps for the immediate cessation of the military action of Israel in Egypt, when the motion by the representative of France to adjourn the meeting was adopted.<sup>4</sup>

**\*\*7. Invitation to participate in the proceedings****8. Conduct of business**

## CASE 4

On the following occasion, a proposal with regard to the conduct of business was adopted by vote of the Security Council, notwithstanding the negative vote of a permanent member:

At the 715th meeting on 19 January 1956, in connexion with the Palestine question, with special reference to incidents in the area east of Lake Tiberias, when the Council decided, on the proposal of the United Kingdom, to give priority to the draft resolution jointly submitted by France, the United Kingdom and the United States.<sup>5</sup>

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

## CASES 5-6

On the following occasions proposals to convoke an emergency special session of the General Assembly, as provided in General Assembly resolution 377A (V), were adopted by vote of the Security Council, notwithstanding the negative vote of a permanent member:

## Case 5

At the 751st meeting on 31 October 1956, in con-

<sup>3</sup> 842nd meeting (PV): p. 8.

<sup>4</sup> 749th meeting: para. 203.

<sup>5</sup> 715th meeting: para 130. See chapter I, Case 2.

nexion with the situation created by action taken against Egypt when the Council adopted a draft resolution, submitted by the representative of Yugoslavia, calling for an emergency special session of the General Assembly.<sup>6</sup>

## Case 6

At the 754th meeting on 4 November 1956, on connexion with the situation in Hungary, when the Council adopted a draft resolution, submitted by the United States, calling for an emergency special session of the General Assembly.<sup>7</sup>

**B. CASES IN WHICH THE VOTE INDICATED THE NON-PROCEDURAL CHARACTER OF THE MATTER****1. In connexion with matters considered by the Security Council under its responsibility for the maintenance of international peace and security**

## CASE 7

**Decision** of 13 October 1956 (743rd meeting): *Rejection of second part of draft resolution submitted by the representatives of France and the United Kingdom in connexion with the Suez Canal question.*<sup>8</sup>

## CASE 8

**Decision** of 30 October 1956 (749th meeting): *Rejection of draft resolution submitted by the United States in connexion with the Palestine question, with special reference to steps for the immediate cessation of the military action of Israel in Egypt.*<sup>9</sup>

## CASE 9

**Decision** of 30 October 1956 (750th meeting): *Rejection of draft resolution submitted by the USSR in connexion with the Palestine question, with special reference to steps for the immediate cessation of the military action of Israel in Egypt.*<sup>10</sup>

## CASE 10

**Decision** of 4 November 1956 (754th meeting): *Rejection of draft resolution submitted by the representative of the United States in connexion with the situation in Hungary.*<sup>11</sup>

## CASE 11

**Decision** of 20 February 1957 (773rd meeting): *Rejection of draft resolution submitted by the representatives of Australia, Cuba, the United Kingdom and*

<sup>6</sup> 751st meeting: para. 147. See chapter VI, Case 2.

<sup>7</sup> 754th meeting: para. 75. See chapter VI, Case 3.

<sup>8</sup> 743rd meeting: para. 106. See chapter VIII, p. 106.

<sup>9</sup> 749th meeting: para. 186. See chapter VIII, p. 99.

<sup>10</sup> 750th meeting: para. 23. See chapter VIII, p. 100.

<sup>11</sup> 754th meeting: para. 68. See chapter VIII, p. 110.

the United States in connexion with the India-Pakistan question.<sup>12</sup>

## CASE 12

**Decision of 2 May 1958 (817th meeting):** *Rejection of draft resolution submitted by the representative of the United States in connexion with the letter<sup>13</sup> dated 18 April 1958 from the representative of the Union of Soviet Socialist Republics addressed to the President of the Security Council.*<sup>14</sup>

## CASE 13

**Decision of 18 July 1958 (834th meeting):** *Rejection of draft resolution submitted by the representative of the United States in connexion with the letter<sup>15</sup> dated 22 May 1958 from the representative of Lebanon addressed to the President of the Security Council.*<sup>16</sup>

## CASE 14

**Decision of 22 July 1958 (837th meeting):** *Rejection of draft resolution submitted by the representative of Japan in connexion with the letter<sup>17</sup> dated 22 May 1958 from the representative of Lebanon addressed to the President of the Security Council.*<sup>18</sup>

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

### a. In connexion with admission of new Members to the United Nations

## CASES 15-16

At the 789th meeting on 9 September 1957, the agenda of the Security Council included requests from the General Assembly that the Council reconsider the applications of the Republic of Korea and Viet-Nam for membership in the United Nations.<sup>19</sup>

The Council had before it two joint draft resolutions,<sup>20</sup> one recommending the Republic of Korea, the other recommending Viet-Nam for admission to membership in the United Nations. In addition, the Council had before it a USSR draft resolution<sup>21</sup> submitted in connexion with the application<sup>22</sup> of the Mongolian People's Republic, recommending to the General Assembly the admission of that country to membership in the United

Nations. During the consideration of the application of the Republic of Korea, the representative of the USSR submitted an amendment<sup>23</sup> to the joint draft resolution to insert the words "The Democratic People's Republic of Korea and" before the words "The Republic of Korea".

At the 790th meeting on 9 September 1957, the first of the joint draft resolutions referred to above was rejected by 10 votes in favour to 1 against. The President, speaking as the representative of Cuba, then observed:

"The delegation of Cuba has consistently held, since the foundation of the United Nations, that in dealing with the question of the admission of new Members, the Security Council should adopt the position that a favourable decision is one which obtains the votes of seven States, whether permanent members of the Council or not.

"... The Council's practice, which has the backing of a majority whose opinion has hitherto remained unchanged, is to consider that a recommendation against which a permanent member has voted does not constitute a favourable recommendation. As the representative of the Soviet Union has cast a negative vote in the present case, I am compelled, as President, while reserving my own position and that of my Government, to declare, in conformity with the majority view which has hitherto prevailed in the Council, that this application for admission has not obtained the votes required for it to be recommended to the General Assembly."

Following the consideration of the application of Viet-Nam, the second joint draft resolution was rejected, the vote being 10 in favour and 1 against (the negative vote being that of a permanent member). The President, speaking as the representative of Cuba, then reiterated the statements he had made regarding the position of his delegation, as quoted above.

The representative of the USSR commented on the President's statement as follows:

"I should like to point out that this is not only the practice of the Council, but it is also required by the Charter. Under Article 27 decisions of the Security Council on all matters except procedural matters require an affirmative vote of seven members including the concurring votes of the permanent members. It is quite obvious that the question of the admission of new Members is not a procedural matter, but a matter of substance, and as such is covered by Article 27. In other words, my emendation of your conclusion is that this procedure is not only the established practice of the Security Council, but that it is also required by the United Nations Charter."<sup>24</sup>

**Decision:** *The joint draft resolution submitted by the representatives of Australia, China, Colombia, Cuba,*

<sup>12</sup> 773rd meeting: para. 126. See chapter VIII, p. 113.

<sup>13</sup> S/3990, O.R., 13th year, Suppl. for Apr.-June 1958, p. 8.

<sup>14</sup> 817th meeting: para. 3.

<sup>15</sup> S/4007, O.R., 13th year, Suppl. for Apr.-June 1958, p. 33.

<sup>16</sup> 834th meeting (PV): p. 46.

<sup>17</sup> S/4007, O.R., 13th year, Suppl. for Apr.-June 1958, p. 33.

<sup>18</sup> 837th meeting (PV): pp. 7-10.

<sup>19</sup> Resolution 1017 A-B (XI), 28 February 1957.

<sup>20</sup> S/3884, S/3885, O.R., 12th year, Suppl. for July-Sept. 1957, p. 37.

<sup>21</sup> S/3877, O.R., 12th year, Suppl. for July-Sept. 1957, p. 33.

<sup>22</sup> S/3873, O.R., 12th year, Suppl. for July-Sept. 1957, p. 23.

<sup>23</sup> S/3887, O.R., 12th year, Suppl. for July-Sept. 1957, p. 37.

<sup>24</sup> For texts of relevant statements, see:

790th meeting: President (Cuba), paras. 11-12, 58-59; USSR, para. 60.

*France, the Philippines, the United Kingdom and the United States to recommend the Republic of Korea for membership was not adopted.*<sup>25</sup>

**Decision:** *The joint draft resolution submitted by the representatives of Australia, China, Colombia, Cuba, France, the Philippines, the United Kingdom and the United States to recommend Viet-Nam for membership was not adopted.*<sup>26</sup>

#### CASE 17

**Decision** of 24 January 1957 (765th meeting): *Australia-Colombia-Cuba-United Kingdom-United States joint draft resolution.*<sup>27</sup>

<sup>25</sup> 790th meeting, para. 9.

<sup>26</sup> 790th meeting, para. 56.

<sup>27</sup> 765th meeting, para. 150.

#### CASE 18

**Decision** of 9 December 1958 (843rd meeting): *The joint draft resolution submitted by the representatives of France, Japan, the United Kingdom and the United States to recommend the Republic of Korea for trusteeship was not adopted.*<sup>28</sup>

#### CASE 19

**Decision** of 9 December 1958 (843rd meeting): *The joint draft resolution submitted by the representatives of France, Japan, the United Kingdom and the United States to recommend Viet-Nam for membership was not adopted.*<sup>29</sup>

**\*\*b. In connexion with appointment of the Secretary-General**

<sup>28</sup> 843rd meeting (PV): p. 22.

<sup>29</sup> 843rd meeting (PV): p. 27.

### Part II

#### **\*\*PROCEEDINGS OF THE SECURITY COUNCIL REGARDING VOTING UPON THE QUESTION WHETHER THE MATTER WAS PROCEDURAL WITHIN THE MEANING OF ARTICLE 27 (2) OF THE CHARTER**

### Part III

#### **ABSTENTION AND ABSENCE IN RELATION TO ARTICLE 27 (3) OF THE CHARTER**

##### **\*\*A. OBLIGATORY ABSTENTION**

##### **B. VOLUNTARY ABSTENTION IN RELATION TO ARTICLE 27 (3)**

##### **1. Certain cases in which permanent members have abstained otherwise than in accordance with the proviso of Article 27 (3)**

##### **INDIA-PAKISTAN QUESTION**

##### CASE 20

**Decision** of 24 January 1957 (765th meeting): *Australia-Colombia-Cuba-United Kingdom-United States joint draft resolution.*<sup>30</sup>

##### CASE 21

**Decision** of 21 February 1957 (774th meeting): *Australia-United Kingdom-United States joint draft resolution.*<sup>31</sup>

<sup>30</sup> 765th meeting: para. 150.

<sup>31</sup> 774th meeting: para. 79.

##### CASE 22

**Decision** of 2 December 1957 (808th meeting): *Amendments by Sweden to the Australia-Colombia-Philippines-United Kingdom-United States joint draft resolution.*<sup>32</sup>

##### CASE 23

**Decision** of 2 December 1957 (808th meeting): *Australia-Colombia-Philippines-United Kingdom-United States joint draft resolution.*<sup>33</sup>

##### CASE 24

**Decision** of 11 June 1958 (825th meeting): *Swedish draft resolution.*<sup>34</sup>

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<sup>32</sup> 808th meeting: para. 8.

<sup>33</sup> 808th meeting: para. 17.

<sup>34</sup> 825th meeting: para. 82.

**Chapter V**

**SUBSIDIARY ORGANS OF THE SECURITY COUNCIL**

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## INTRODUCTORY NOTE

The material included in this chapter pertains to procedures of the Security Council in establishing, under Article 29 of the Charter, subsidiary organs deemed necessary for the performance of its functions. Part I includes a case history of an occasion on which a subsidiary organ was established by the Security Council.

No material has been found for the period under review which would require inclusion in part II concerning procedures relative to subsidiary organs. In chapter VIII under the Palestine and the India-Pakistan questions will be found decisions of the Council giving

further directives to the subsidiary organs previously established in connexion with those questions.

### ARTICLE 29 OF THE CHARTER

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

#### *Rule 28 of the Provisional Rules of Procedure*

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

## Part I

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

#### NOTE

The case history included in part I gives an account of tasks proposed for and entrusted to a subsidiary organ, the United Nations Observation Group in Lebanon, together with a synopsis of discussion related to the question of its composition. In this instance, the Council empowered the Secretary-General to determine the composition and membership of the subsidiary organ in question.

Of the subsidiary organs established in connexion with the Security Council's discharge of responsibilities for the maintenance of international peace and security, the United Nations Representative for India and Pakistan and the United Nations Truce Supervision Organization for Palestine continued to function during the period under review. The Council has, from time to time, requested these organs to submit special reports on particular aspects of the questions with which they were concerned.<sup>1</sup>

During the period under review, there has been no instance of submission of a proposal for the establishment of a subsidiary organ which was not adopted. On one occasion,<sup>2</sup> in connexion with the Suez Canal question, a suggestion was made by a permanent member of the Council for the establishment of a committee to settle the problem. However, no formal proposal

was submitted and the Council took no decision on the matter.

The Council has not, during the period under review, entrusted all tasks in connexion with activities at "places other than the seat of the Organization" to subsidiary organs. In connexion with the Palestine question, it addressed itself to the Secretary-General for the performance of functions of survey and report (see chapter I, part IV, Note, and in chapter VIII, the Palestine question). In connexion with the Complaint of Lebanon, it conferred on the Secretary-General authority to take the necessary steps for the dispatch of an observation group to Lebanon, authority which extended to the composition of the Group (see in this chapter, Case 1). The reports from the United Nations Truce Supervision Organization have usually been submitted to the Security Council through the Secretary-General. The resolution of the Council of 11 June 1958 establishing the United Nations Observation Group in Lebanon provided that the Group was to keep the Council currently informed through the Secretary-General.

On one occasion, the Council, despite the existence of a subsidiary organ to deal with the question, entrusted the President of the Council with the task of examining with the parties any proposals which, in his opinion, were likely to contribute to a settlement and requested the subsidiary organ to render the President such assistance as he might request (see chapter I, Case 7, and in chapter VIII, under India-Pakistan question, *Decision of 21 February 1957*).

<sup>1</sup> Decisions of 19 January and 4 June 1956, 28 May and 2 December 1957, and 22 January 1958.

<sup>2</sup> 736th meeting: paras. 169-172.



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

**1. Subsidiary organs established**

**CASE I**

**OBSERVATION GROUP IN LEBANON**

*Establishment*

At the 824th meeting on 10 June 1958, in connexion with the item "Complaint by Lebanon in respect of a situation arising from the intervention of the United Arab Republic in the internal affairs of Lebanon, the continuance of which is likely to endanger the maintenance of international peace and security", the representative of Sweden introduced a draft resolution "to dispatch urgently an observation group to proceed to Lebanon so as to ensure that there is no illegal infiltration of personnel or supply of arms or other materiel across the Lebanese borders".<sup>3</sup>

At the 825th meeting on 11 June 1958, the Security Council, in adopting the Swedish draft resolution, decided to establish the Observation Group with authority to proceed to Lebanon and to keep the Council currently informed through the Secretary-General.<sup>4</sup>

*Composition*

The resolution authorized the Secretary-General "to take the necessary steps" to dispatch the Observation Group to the Lebanese borders. After the resolution had been adopted, the Secretary-General informed the Council that, for implementing its resolution, he envisaged an operation on two levels: the observation group proper "composed of highly qualified and experienced men who have to be collected from various corners of the globe"; and a second category, constituting a group servicing the main observation group, which could be immediately recruited from the personnel already existing in the Truce Supervision Organization in Jerusalem.<sup>5</sup> On 14 June 1958, the

<sup>3</sup> S 4022. 824th meeting: para. 111. For full text, see chapter VIII, pp. 121-128.

<sup>4</sup> 825th meeting: paras. 82, 92.

<sup>5</sup> 825th meeting: para. 90.

Secretary-General announced that, pursuant to the Security Council resolution of 11 June 1958, he had appointed three persons to compose the Observation Group and to proceed to Lebanon without delay. Furthermore, a number of officers on leave from the United Nations Truce Supervision Organization would be placed under the authority of the Observation Group in Lebanon as observers on a temporary basis.

*Termination*

On 17 November 1958, the United Nations Observation Group in Lebanon submitted its fifth report<sup>6</sup> to the Secretary-General stating that "Since the task assigned to it may now be regarded as completed, the Group is of the opinion that the withdrawal of UNOGIL should now be undertaken".

In his letter<sup>7</sup> of 17 November 1958, the Secretary-General stated that in view of the statement<sup>8</sup> made by the Government of Lebanon requesting the deletion of the complaint of 22 May 1958 from the list of matters of which the Security Council was then seized and the recommendation of the Observation Group, he had given instructions to the Observation Group to present a detailed plan for the withdrawal and the liquidation of that operation.

In the light of these circumstances, the Council, at its 840th meeting on 25 November 1958, decided that the Lebanese complaint of 22 May 1958 be removed from the list of matters of which the Council was seized, with the understanding that the Secretary-General would inform the General Assembly under the mandate given him in Assembly resolution 1237 (ES-3) of 21 August 1958.<sup>9</sup>

**\*\*2. Subsidiary organs proposed but not established**

**\*\*B. NOT INVOLVING, TO FACILITATE THEIR WORK,  
MEETINGS AT PLACES AWAY FROM THE SEAT  
OF THE ORGANIZATION**

<sup>6</sup> S 4114.

<sup>7</sup> S 4115.

<sup>8</sup> S 4113.

<sup>9</sup> 840th meeting (PV): pp. 12-13. See in chapter VIII, under letter dated 22 May 1958 from the representative of Lebanon, *Decision of 25 November 1958 (840th meeting)*.

**Part II**

**\*\*CONSIDERATION OF PROCEDURES RELATIVE TO SUBSIDIARY ORGANS**

**Chapter VI**

**RELATIONS WITH OTHER UNITED NATIONS ORGANS**

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## INTRODUCTORY NOTE

As previously in the *Repertoire*, the present chapter, dealing with the relations of the Security Council with all the other organs of the United Nations, is broader in scope than chapter XI of the provisional rules of procedure of the Security Council (rule 61) which governs only certain procedures related to the election by the Council of members of the International Court of Justice.

The present chapter presents material bearing on the relations of the Security Council with the General Assembly (part I) and also brings up to date the account given in the previous volume of the *Repertoire* of the transmission by the Trusteeship Council to the Security

Council of questionnaires and reports (part III). No material has been found for the period under review which would require entry in parts II, IV and V relating respectively to relations with the Economic and Social Council, the International Court of Justice and the Military Staff Committee.

The functions of the Secretariat in relation to the Security Council, to the extent that they are governed by the provisional rules of procedure of the Council, are covered in chapter I, part IV. Proceedings regarding the appointment of the Secretary-General under Article 97 are treated in part I of this chapter.

### Part I

#### RELATIONS WITH THE GENERAL ASSEMBLY

##### NOTE

In part I, concerning relations of the Security Council with the General Assembly, the arrangement of the material remains the same as before. In Section B appears a new sub-heading under which certain proceedings of the Security Council relating to the convocation of emergency special sessions of the General Assembly have been treated.<sup>1</sup>

In accordance with the previous arrangement of material, part I is mainly concerned with instances where the responsibility of the Security Council and of the General Assembly is, under the provisions of the Charter or the Statute of the Court, either exclusive or mutual; that is, where a final decision is or is not to be taken by one organ without a decision to be taken in the same matter by the other. The proceedings in these instances fall into three broad categories.

The first includes proceedings where the relations between the two organs are governed by provisions of the Charter (Article 12, paragraph 1) limiting the authority of the General Assembly in respect of any dispute or situation while the Security Council is exercising the functions assigned to it by the Charter. During the period under review, there was discussion in the Council bearing on the mutual relationships of the Security Council and the General Assembly when the latter was exercising its functions with regard to matters concerning the maintenance of international peace and security. This has been treated<sup>2</sup> in section A. The second category comprises instances where the decision by the Council must be taken before that of the General

Assembly; e.g., appointment of the Secretary-General, and conditions of accession to the Statute of the International Court of Justice. The third group includes cases where the final decision depends upon action to be taken by both the organs concurrently, such as the election of members of the International Court of Justice. Proceedings in the second and third categories have been dealt with<sup>3</sup> in sections C and D respectively.

A continuation of the tabulation of recommendations to the Security Council adopted by the General Assembly in the form of resolutions will be found in part I, section F, and references to the annual and special reports of the Security Council submitted to the General Assembly in section C.

#### A. PRACTICES AND PROCEEDINGS IN RELATION TO ARTICLE 12 OF THE CHARTER

##### *Article 12 of the Charter*

"1. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests.

"2. The Secretary-General, with the consent of the Security Council, shall notify the General Assembly at each session of any matters relative to the maintenance of international peace and security which are being dealt with by the Security Council and shall similarly notify the General Assembly, or the Members of the United Nations if the General

<sup>1</sup> Cases 2 and 3.

<sup>2</sup> Case 1.

<sup>3</sup> Cases 5-7.

Assembly is not in session, immediately the Security Council ceases to deal with such matters.”

[*Note:* During the period under review, discussion arose in the Council on the question of the respective competence of the Security Council and the General Assembly to deal with a matter relating to the maintenance of international peace and security, which the Council had considered and then referred to the General Assembly. In connexion with a proposal that the Council should consider an item relating to non-compliance with a decision of the first emergency special session of the Assembly, and take action under Chapter VII, it was maintained, on the one hand, that should the Council concern itself with the matter, the Assembly would be prevented from continuing the peace-making process it had initiated, and on the other hand, that the fact that the General Assembly was dealing with a question did not relieve the Security Council of the obligation to act under Chapter VII of the Charter, should circumstances necessitate, since the General Assembly, in any case, could not act under that Chapter of the Charter.

Notifications to the General Assembly under Article 12(2) by the Secretary-General, with the consent of the Security Council, of “matters relative to the maintenance of international peace and security which are being dealt with by the Security Council”, and of matters with which the Council has ceased to deal, have been drafted on the basis of the “Summary Statement by the Secretary-General on matters of which the Security Council is seized and on the stage reached in their consideration” which is circulated each week by the Secretary-General in accordance with rule 11 of the provisional rules of procedure.

The notification issued before each session of the General Assembly contains the same agenda items as those in the current Summary Statement, except that certain items in the Statement which are not considered as “matters relative to the maintenance of international peace and security” for the purpose of Article 12(2) are excluded from the notification; e.g., rules of procedure of the Council, applications for membership, and the application of Articles 87 and 88 with regard to strategic areas. In addition, the notification contains a list of any items with which the Council has ceased to deal since the previous session of the General Assembly.<sup>4</sup>

Matters being dealt with by the Security Council have been listed in the notification, since 1951, in two categories: (1) matters which are being dealt with by the Council and which have been discussed during the period since the last notification; and (2) matters of which the

<sup>4</sup> In the notification issued before the convening of the thirteenth session of the General Assembly (A/3919, 16 September 1958) there were no items listed as matters with which the Security Council had ceased to deal. In a later notification to the thirteenth session of the General Assembly (A/4008, 26 November 1958) the Secretary-General informed the General Assembly that the Security Council had decided, at its 840th meeting on 25 November 1958, to delete from the list of matters of which the Council was seized the complaint submitted on 22 May 1958 by the Government of Lebanon.

Council remains seized but which have not been discussed since the last notification.<sup>5</sup>

Since 1947, the consent of the Council required by Article 12(2) has been obtained through the circulation by the Secretary-General to the members of the Council of copies of draft notifications.]

#### CASE 1

At the 755th meeting on 5 November 1956, the Security Council rejected the provisional agenda which included a cablegram<sup>6</sup> from the Minister of Foreign Affairs of the USSR concerning “Non-compliance by the United Kingdom, France and Israel with the decision of the emergency special session of the General Assembly of 2 November 1956 and immediate steps to halt the aggression of the aforesaid States against Egypt”. The cablegram contained a draft resolution under which the Council would take action in accordance with Article 42 of the Charter.

Prior to the vote, the Secretary-General reported to the Council on his efforts to achieve a cessation of hostilities in Egypt, in accordance with the authorization contained in General Assembly resolution 997 (ES-I).

After the vote,<sup>7</sup> the representative of the United States, in explaining his vote, stated:

“... The fact is that the United Nations, through the General Assembly, has acted and is acting on the situation in Egypt... The Secretary-General is bending every effort to arrange a cease-fire... The question of the hostilities in Egypt is being actively dealt with by the General Assembly and the Secretary-General. We here should lend every assistance, and, in the judgement of the United States, the course proposed by the Government of the Soviet Union would run counter to everything the General Assembly and the Secretary-General are doing. For these reasons, we cannot possibly support the proposal of the Soviet Union.”

<sup>5</sup> In the notification issued before the convening of the thirteenth session of the General Assembly (A/3919, 16 September 1958) there appeared listed among the matters discussed by the Security Council during the period since the previous notification, the following agenda items: (1) “Letter dated 22 May 1958 from the representative of Lebanon addressed to the President of the Security Council”, and (2) “Letter dated 17 July 1958 from the representative of Jordan addressed to the President of the Security Council”. Both these items were dealt with at the third emergency special session of the General Assembly. Among the matters which had not been discussed by the Security Council during the period since the previous notification, but of which the Council remained seized, the following agenda items appeared: (1) “The situation in Hungary”, which was dealt with at the second emergency special session, and at the eleventh, twelfth and thirteenth sessions of the General Assembly; and (2) “Letter dated 30 October 1956 from the representative of Egypt addressed to the President of the Security Council”. This item was dealt with, in substance, at the first emergency special session and at the eleventh and twelfth sessions of the General Assembly.

<sup>6</sup> S/3736, *O.R.*, 11th year, *Suppl. for Oct.-Dec. 1956*, pp. 128-130.

<sup>7</sup> 755th meeting: para. 27.

The representative of Cuba expressed the view that the Security Council was not competent to consider this question since it was then pending consideration by the General Assembly.

The representative of Belgium, after noting that the General Assembly had discussed and adopted recommendations on the same question in pursuance of a resolution adopted by the Council, stated:

"... If the Security Council were to deal with the matter, as it has been requested to do, it would paralyse the General Assembly, for the Charter clearly seeks to prevent the confusion and possible conflict which would arise if these two bodies were to take up the same question at the same time."

The representative of China expressed apprehension that consideration of the proposal made by the USSR "would only serve the purpose of hampering the peace-making process which the special session of the General Assembly has so auspiciously inaugurated".

The representative of Peru maintained that "overlapping competence or double jurisdiction" should be avoided. He added:

"... Just as the General Assembly cannot consider a question of which the Security Council is seized, so the Security Council obviously cannot logically consider a question which is pending before the General Assembly, particularly one referred to it by virtue of a procedural resolution adopted by the Council itself.

"... Nothing, not even the Charter, much less the specific provisions of General Assembly resolution 377(V) entitled 'Uniting for peace' and those of us who participated in the extensive debate which resulted in the adoption of that resolution are familiar with its provisions—nothing, I say, would authorize the Council at this stage to declare itself competent in the matter and so to provoke an unwarranted and in every respect undesirable suspension of the action initiated by the General Assembly..."

The representative of the USSR, in replying to the above objections, stated:

"... Only when it became clear that the moral pressure of the General Assembly had no effect on the aggressor countries, did the Soviet Union submit its proposal. So this proposal cannot paralyse the decision adopted by the General Assembly. On the contrary it would only help to clarify it."

He further stated:

"... the proposal does not violate the Charter in any way; nor is there any conflict of jurisdiction between the General Assembly and the Security Council. The fact that the General Assembly is taking action on any question does not relieve the Security Council of the obligation to act if the circumstances demand it.

"... The General Assembly cannot act under Chapter VII; this is set forth explicitly in Article 11 of the Charter. ... In the present case, when reference is made to the use of the armed forces of other Members of the Organization, we are dealing with

'action' in connexion with a threat to the peace, and Article 42 speaks of such action. Any objections based on the Charter are therefore unfounded. ..."

## B. PRACTICES AND PROCEEDINGS IN RELATION TO THE CONVOCATION OF A SPECIAL SESSION OF THE GENERAL ASSEMBLY

### "Article 20 of the Charter

"The General Assembly shall meet in regular annual sessions and in such special sessions as occasion may require. Special sessions shall be convoked by the Secretary-General at the request of the Security Council or of a majority of the Members of the United Nations."

[Note: No special session of the General Assembly was convened at the call of the Security Council during the period under review.] On three occasions the Security Council has called emergency special sessions of the General Assembly. In the first two instances,<sup>9</sup> specific reference to resolution 377 A(V)<sup>11</sup> was made in the decisions adopted by the Council. In the third instance,<sup>12</sup> no such reference was made in the resolution adopted by the Council. In all three instances, the decisions stated that the lack of unanimity of the permanent members of the Security Council had prevented it from exercising its primary responsibility for the maintenance of international peace and security. The relevant proceedings of the Council on each occasion are set forth in the case histories entered below.

Under the "Uniting for peace" resolution, emergency special sessions of the Assembly are convened upon the request of the Security Council, on the vote of any seven of the members. In the first two cases presented below, negative votes were cast by permanent members of the Council while in the third case the vote to make the request was unanimous. In the first case,<sup>13</sup> recourse to the "Uniting for peace" resolution was opposed by

<sup>9</sup> For texts of relevant statements, see:

755th meeting: Belgium, para. 53; China, para. 56; Cuba, para. 47; Peru, paras. 57-58; USSR, paras. 66, 70-71; United States, para. 29.

<sup>10</sup> See Case 8 below for a presidential statement concerning special sessions.

<sup>11</sup> Cases 2 and 3.

<sup>12</sup> The relevant passage from resolution 377 (A) (V) follows: "The General Assembly, ... 1. Resolves that if the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures, including in the case of a breach of the peace or act of aggression the use of armed force when necessary, to maintain or restore international peace and security. If not in session at the time, the General Assembly may meet in emergency special session within twenty-four hours of the request therefor. Such emergency special session shall be called if requested by the Security Council on the vote of any seven members, or by a majority of the Members of the United Nations."

<sup>13</sup> Case 5.

<sup>14</sup> Case 2.

two of the permanent members of the Council on the following grounds: (1) that there had been no fulfilment of the condition in resolution 377 A (V) of a previous determination by the Council that there existed a threat to the peace, a breach of the peace, or an act of aggression; (2) that the question to be brought before the General Assembly at the proposed emergency special session was not specified; (3) that the agenda item before the Council was not the one in respect of which the permanent members had disagreed; and (4) that the agenda item in respect of which there had been lack of unanimity among the permanent members fell within the scope of Chapter VI rather than Chapter VII of the Charter. In the second case,<sup>14</sup> a permanent member of the Council objected to the proposal to summon an emergency special session on the ground that Article 2 (7) of the Charter barred consideration of the matter by the United Nations. In the third case,<sup>15</sup> two draft resolutions were submitted to the Council which had the common purpose of calling an emergency special session, but differed in formulating the question to be brought before the General Assembly and in specifying the basis of such convocation. The resolution adopted by the Council defined the matter to be dealt with only by reference to the agenda of the Council and omitted reference to resolution 377 A (V).]

#### CASE 2

At the 748th meeting on 30 October 1956, in connexion with the letter<sup>16</sup> dated 29 October 1956 from the representative of the United States concerning "The Palestine question: steps for the immediate cessation of the military action of Israel in Egypt", the representative of the United States contended that it was imperative that the Council act in the promptest manner to determine that a breach of the peace had occurred in the area of the Sinai Peninsula, and to order the cessation of the military action by Israel and the withdrawal of its armed forces behind the established armistice lines. To this effect he announced that he would introduce a draft resolution.

At the 749th meeting held on the same date, the representative of the United Kingdom reported to the Council that the Governments of France and the United Kingdom intended to despatch armed forces to occupy temporarily key positions in the area of the Suez Canal. This action had been made necessary because of the lack of implementation of the Charter articles providing for a military arm of the Security Council.

The representative of the United States introduced a draft resolution<sup>17</sup> calling upon Israel immediately to withdraw its armed forces, and calling upon all members to refrain from the use of force, or threat of peace in the area. He later accepted<sup>18</sup> an amendment to his draft

resolution to insert a new paragraph containing an injunction to Israel and Egypt immediately to cease fire.

**Decision:** *The United States draft resolution, as amended, was not adopted. There were 7 votes in favour, 2 against, with 2 abstentions (the negative votes being those of permanent members of the Council).*<sup>19</sup>

At the same meeting, the representative of the USSR submitted<sup>20</sup> a modified text of the draft resolution that had not been adopted. He later accepted<sup>21</sup> amendments proposed by the representatives of China and Iran.

At the 750th meeting, held on the same date, the Council adopted an agenda which included, as item 2, the letter<sup>22</sup> dated 29 October 1956 from the representative of the United States, and as item 3 the letter<sup>23</sup> dated 30 October 1956 from the representative of Egypt. Objections to the inclusion in the agenda of item 3 had been raised by the representatives of Australia and the United Kingdom, on the grounds that the substance of the matter had been before the Council at the 749th meeting, during its consideration of item 2.

The representative of the USSR, in connexion with agenda item 2, submitted<sup>24</sup> a revised text of his draft resolution to insert a new paragraph calling upon all the parties concerned immediately to cease fire. Upon suggestions from several members, he later reverted<sup>25</sup> to the draft resolution, as amended, previously placed before the Council.

**Decision:** *The USSR draft resolution was not adopted. There were 7 votes in favour, 2 against, with 2 abstentions (the negative votes being those of permanent members of the Council).*<sup>26</sup>

At the same meeting, the Council proceeded to the consideration of agenda item 3, on the substance of which no proposals had been submitted.

The representative of Yugoslavia, after remarking the unwillingness of two permanent members of the Council to support the cease-fire, stated that a situation had been created in which the Security Council had been rendered powerless through the use of the veto. He suggested that the members of the Council should consider the possibility of calling an emergency special session of the General Assembly under the terms of General Assembly resolution 377 (V) entitled "Uniting for peace".

At the 751st meeting on 31 October 1956, the representative of Yugoslavia submitted the following draft resolution<sup>27</sup> to call for an emergency special session

<sup>14</sup> Case 3.

<sup>15</sup> Case 5.

<sup>16</sup> S/3706, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 108.

<sup>17</sup> S/3710, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 110.

<sup>18</sup> 749th meeting: para. 125.

<sup>19</sup> 749th meeting: para. 186.

<sup>20</sup> 749th meeting: para. 188.

<sup>21</sup> 749th meeting: paras. 192, 199 and 201.

<sup>22</sup> S/3706, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 108.

<sup>23</sup> S/3712, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 111-112.

<sup>24</sup> 750th meeting: para. 15.

<sup>25</sup> 750th meeting: para. 22.

<sup>26</sup> 750th meeting: para. 23.

<sup>27</sup> S/3719, 751st meeting: para. 71.

of the General Assembly, in accordance with rule 8 (b) of the rules of procedure of the General Assembly:

*"The Security Council,*

*"Considering that a grave situation has been created by action undertaken against Egypt,*

*"Taking into account that the lack of unanimity of its permanent members at the 749th and 750th meetings of the Security Council has prevented it from exercising its primary responsibility for the maintenance of international peace and security,*

*"Decides to call an emergency special session of the General Assembly, as provided in General Assembly resolution 377 A (V) of 3 November 1950, in order to make appropriate recommendations."*

The representative of the United Kingdom, in opposing the draft resolution, stated that it was out of order because the "Uniting for peace" resolution of the General Assembly could only be invoked under certain conditions, one of which was that a lack of unanimity among its permanent members should have prevented the Council from taking a decision. This fact clearly presupposed that a draft resolution on the item being considered by the Council should have been submitted, circulated and voted upon, but this had not been the case. Furthermore, the two draft resolutions which had been voted upon and not adopted at the 749th and 750th meetings of the Council under another agenda item were not within the compass of the "Uniting for peace" resolution, and therefore could not be invoked to support the Yugoslav proposal.

The representative of Yugoslavia stated, in reply to the representative of the United Kingdom, that the problem in respect of which it was proposed that an emergency special session of the General Assembly be convened was fully covered by the draft resolution<sup>28</sup> submitted by the United States at the 749th meeting of the Council. That draft resolution, in effect, also covered the question of the intervention in Egypt of forces other than Israel forces, which was the substance of the matter before the Council. As had been recognized by the representatives of Australia and the United Kingdom during the discussion on the inclusion in the agenda of the item before the Council, the question dealt with by the Council was in substance the same as that in respect of which the two draft resolutions had been submitted, voted upon and not adopted on the previous day. The provisions of the "Uniting for peace" resolution were therefore fully applicable to the Yugoslav draft resolution.

The representative of the United Kingdom further contended that the "Uniting for peace" resolution could only be invoked following action under Chapter VII of the Charter. He added:

*"Action under Chapter VII is dependent upon a determination by the Council of the existence of a threat to the peace, a breach of the peace or an act of aggression. The draft resolutions which were*

*before the Council yesterday contained no such findings."*

The President, speaking as the representative of France, noted that the draft resolution before the Council did not specify the question which would be brought before the General Assembly. He stated further that there had been no evidence of a lack of unanimity among the permanent members at the 749th meeting of the Council. He also observed that the voting which had taken place at the 750th meeting was related to an agenda item which was no longer being considered by the Council and, moreover, that that voting had not come within the terms of Chapter VII of the Charter. Therefore the Yugoslav draft resolution was inconsistent with the texts on which it was based.

The representative of Yugoslavia, in commenting on this statement, recalled that the draft resolution which had not been adopted at the 750th meeting called for the immediate withdrawal of armed forces, expressed grave concern at the violation of the Armistice Agreement and requested a cease-fire. He added:

*"... It would seem to me, according to my understanding of the Charter, that all of this is covered by Chapter VII, Articles 40 and 41."*

The representatives of Cuba and Peru agreed that, although listed separately, the problems dealt with under the agenda item being presently discussed by the Council, and under the agenda item discussed the day before, were essentially the same, and that a breach of the peace had occurred. In the circumstances, the United Nations had to pursue its peaceful efforts at an emergency special session of the General Assembly.

The President (France) put to the vote a motion by the representative of the United Kingdom to the effect that the Yugoslav draft resolution should be ruled out of order.

**Decision:** *The motion was rejected by 4 votes in favour to 6 against, with 1 abstention.<sup>29</sup>*

Before the Yugoslav draft resolution was put to the vote, a brief discussion took place as to what agenda item the Security Council was to refer to the General Assembly.

The representative of Yugoslavia observed that the General Assembly, if convened, was the master of its own procedure and business.

The representative of the United States stated that the draft resolution which he had submitted and which had not been adopted at the 749th meeting should be the one to be referred to the General Assembly, and that its text was adequate to meet all the needs of the situation.<sup>30</sup>

<sup>28</sup> 751st meeting: para. 127.

<sup>29</sup> For texts of relevant statements, see:

748th meeting: United States, para. 8.

749th meeting: United Kingdom, paras. 2-11.

750th meeting: Australia, para. 10; United Kingdom, paras. 3-4; Yugoslavia, paras. 79-84.

751st meeting: President (France), paras. 96-98, 137, 141, 143, 146, 151; Cuba, para. 20; Peru, para. 117; United Kingdom, paras. 82-86, 94, 125-126, 144, 149; United States, paras. 101, 145; Yugoslavia, paras. 71, 88-92, 106-107, 129, 140, 142.

<sup>30</sup> S/3710, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 110.



**Decision:** *At the 751st meeting on 31 October 1956, the Council adopted the Yugoslav draft resolution by 7 votes in favour to 2 against, with 2 abstentions.*<sup>31</sup>

### CASE 3

At the 754th meeting on 4 November 1956, in connexion with the situation in Hungary, after the Security Council had voted upon, and not adopted, a United States draft resolution<sup>32</sup> on the substance of the question, the representative of the United States stated that the USSR, by the use of the veto, had thwarted the Council as the main organ for the maintenance of international peace and security. He then submitted the following draft resolution<sup>33</sup> to call an emergency special session of the General Assembly in accordance with rule 8(b) of the rules of procedure of the General Assembly:

*"The Security Council,*

*"Considering that a grave situation has been created by the use of Soviet military forces to suppress the efforts of the Hungarian people to reassert their rights,*

*"Taking into account that because of the lack of unanimity among its permanent members the Security Council has been unable to exercise its primary responsibility for the maintenance of international peace and security,*

*"Decides to call an emergency special session of the General Assembly, as provided in General Assembly resolution 377 A(V) of 3 November 1950, in order to make appropriate recommendations concerning the situation in Hungary."*

The representative of the USSR stated that he had objected to any examination of the situation in Hungary by the Security Council on the grounds that it was unjustified and constituted an act of intervention in the domestic affairs of Hungary. The same criticism applied, in his view, to the proposal to refer the question to the General Assembly.<sup>34</sup>

**Decision:** *The Council adopted the United States draft resolution by 10 votes in favour to 1 against.*<sup>35</sup>

### CASE 4

At the 838th meeting on 7 August 1958, in connexion with the letter dated 22 May 1958 from the representative of Lebanon and the letter dated 17 July 1958 from the representative of Jordan, the Security Council had before it two draft resolutions, one sub-

<sup>31</sup> 751st meeting: para. 147. Concerning the procedural character of the vote, see chapter IV, part I, Case 4.

<sup>32</sup> S/3730/Rev.1, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 125-126; 754th meeting: para. 68.

<sup>33</sup> 754th meeting: para. 70.

<sup>34</sup> For texts of relevant statements, see:

754th meeting: USSR, para. 71; United States, paras. 69-70, 77; Yugoslavia, para. 74; Secretary-General, para. 78.

<sup>35</sup> 754th meeting: para. 75. Concerning the procedural character of the vote, see chapter IV, part I, Case 6.

mitted by the United States<sup>36</sup> and the other by the USSR,<sup>37</sup> to decide to call an emergency special session of the General Assembly in view of the Council's inability, because of the lack of unanimity of its permanent members, to exercise its primary responsibility for the maintenance of international peace and security.<sup>38</sup> The operative paragraphs of the two draft resolutions differed. The call for an emergency special session in the United States revised draft resolution referred to General Assembly resolution 377(V), but that in the USSR revised draft resolution contained no such reference. The draft resolutions differed also in describing the question considered by the Security Council and to be submitted to the General Assembly. The first preambular paragraph of the United States draft resolution referred to the complaints of Lebanon and Jordan. The USSR draft resolution referred to the situation in the Near and Middle East resulting from the introduction of United States armed forces into Lebanon and of United Kingdom armed forces into Jordan, and proposed that the General Assembly should be called to consider the question of the immediate withdrawal of those forces.

Following some discussion of whether the Security Council could call an emergency special session to consider a question formulated otherwise than it had been in the agenda of the Council, as was done in the USSR revised draft resolution, the President (France) proposed to proceed to the vote on the United States draft resolution.

The representative of the USSR, thereupon, moved two amendments<sup>39</sup> to the United States draft resolution. The first amendment, calling for the deletion of the first preambular paragraph, was opposed by the representatives of the United States and the United Kingdom, the first of whom observed that the paragraph in question contained the "basic fact on which we are proceeding". The second amendment proposed by the USSR would have deleted the reference to General Assembly resolution 377(V) and replaced it with the words "rule 8(b) of the rules of procedure of the General Assembly".<sup>40</sup> The representative of the United States observed that inasmuch as rule 8(b) contained a reference to resolution 377(V), he had no objection to the proposed amendment. The representative of the

<sup>36</sup> S/4056/Rev.1.

<sup>37</sup> S/4057/Rev.1.

<sup>38</sup> The Security Council had previously voted upon four draft resolutions on the substance of the question, which failed of adoption because of the lack of unanimity of the permanent members: S/4047/Rev.1; S/4050/Rev.1; S/4054; S/4055/Rev.1; for the proceedings at which these votes were taken, see chapter VIII under Complaint of Lebanon and Complaint of Jordan.

<sup>39</sup> 838th meeting (PV): pp. 111-115, 131.

<sup>40</sup> Rule 8(b) follows: "Emergency special sessions pursuant to General Assembly resolution 377 A(V) shall be convened within twenty-four hours of the receipt by the Secretary-General of a request for such a session from the Security Council, on the vote of any seven members thereof, or of a request from a majority of the Members of the United Nations expressed by vote in the Interim Committee or otherwise, or of the concurrence of a majority of Members as provided in rule 9."

United Kingdom opposed the USSR amendment on the ground that, in calling an emergency special session, the Security Council did so in virtue of the General Assembly resolution and not in virtue of rule 8 (b). He suggested as a possible compromise inclusion of a reference both to the rule and the resolution. This was not acceptable to the representative of the USSR.

A recess followed after which the representative of Panama proposed<sup>41</sup> that the first preambular paragraph be amended to read "having considered the points on its agenda (S/Agenda/838)". Revised<sup>42</sup> to substitute the words "items 2 and 3" for the words "the points" this amendment was accepted by the representative of the United States.

The representative of the United Kingdom suggested that the last paragraph should read "decides to call an emergency special session of the General Assembly".<sup>43</sup> The representative of the United States accepted this suggestion "because there is only one way an emergency special session of the General Assembly can be called, and that is in accordance with the Uniting for Peace resolution".<sup>44</sup>

**Decision:** *The draft resolution, as amended, was adopted unanimously.*<sup>45</sup>

#### C. PRACTICES AND PROCEEDINGS IN RELATION TO ARTICLES OF THE CHARTER INVOLVING RECOMMENDATIONS BY THE SECURITY COUNCIL TO THE GENERAL ASSEMBLY

##### 1. Appointment of the Secretary-General

###### *"Article 97 of the Charter"*

"The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization."

[*Note:* In accordance with rule 48 of the provisional rules of procedure, the meetings of the Security Council to consider the question of a recommendation to the General Assembly regarding the appointment of the Secretary-General have been held in private, and the Council has voted by secret ballot. A communiqué circulated at the end of each meeting, in accordance with rule 55, has indicated the stage reached in the consideration of the recommendation. During the period under review, the Council considered and unanimously adopted a recommendation of this kind (Case 5).]

<sup>41</sup> 838th meeting (PV): pp. 128-130.

<sup>42</sup> 838th meeting (PV): p. 131.

<sup>43</sup> 838th meeting (PV): pp. 132-135.

<sup>44</sup> For texts of relevant statements, see:

838th meeting (PV): Iraq, pp. 51, 55; Panama, pp. 86-95, 128-130; USSR, pp. 83, 111-115, 121, 131, 136-138; United Kingdom, pp. 116-120, 131-135; United States, pp. 31, 112-116, 122-125, 127, 131, 136-138.

<sup>45</sup> 838th meeting (PV): pp. 139-140; for the final text of the resolution, see S/4083.

#### CASE 5

At the 792nd meeting held in private on 26 September 1957, the Security Council considered the question of the recommendation for the appointment of Secretary-General of the United Nations, and unanimously decided to recommend to the General Assembly that Mr. Dag Hammarskjöld be appointed as Secretary-General of the United Nations for a new five-year term of office.<sup>46</sup> On the same date, the President (Cuba) transmitted this recommendation to the President of the General Assembly<sup>47</sup> and by letter dated 26 September 1957 communicated to Mr. Hammarskjöld the Council's decision to recommend his appointment as Secretary-General for a new five-year term.<sup>48</sup>

#### \*\*2. Conditions of accession to the Statute of the International Court of Justice

#### \*\*3. Conditions under which a non-member State, party to the Statute, may participate in electing Members of the International Court of Justice

#### D. PRACTICES AND PROCEEDINGS IN RELATION TO THE ELECTION OF MEMBERS OF THE INTERNATIONAL COURT OF JUSTICE

##### STATUTE OF THE INTERNATIONAL COURT OF JUSTICE

###### *"Article 4"*

"1. The members of the Court shall be elected by the General Assembly and by the Security Council from a list of persons nominated by the national groups in the Permanent Court of Arbitration..."

###### *"Article 8"*

"The General Assembly and the Security Council shall proceed independently of one another to elect the members of the Court."

###### *"Article 10"*

"1. Those candidates who obtain an absolute majority of votes in the General Assembly and in the Security Council shall be considered as elected.

"2. Any vote of the Security Council, whether for the election of judges or for the appointment of members of the conference envisaged in Article 12, shall be taken without any distinction between permanent and non-permanent members of the Security Council.

"3. In the event of more than one national of the same state obtaining an absolute majority of the votes both of the General Assembly and of the Security Council, the eldest of these only shall be considered as elected."

<sup>46</sup> See Official Communiqué of the 792nd meeting of the Security Council held in private on 26 September 1957.

<sup>47</sup> A/3682, a.i. 17, Annexes, 12th session, p. 1.

<sup>48</sup> 792nd meeting: pp. 1-2 (annex).

*“ Article 11*

“ If, after this first meeting held for the purpose of the election, one or more seats remain to be filled, a second and, if necessary, a third meeting shall take place.”

*“ Article 12*

“ 1. If, after the third meeting, one or more seats still remain unfilled, a joint conference consisting of six members, three appointed by the General Assembly and three by the Security Council, may be formed at any time at the request of either the General Assembly or the Security Council, for the purpose of choosing by the vote of an absolute majority one name for each seat still vacant, to submit to the General Assembly and the Security Council for their respective acceptance.

“ 2. If the joint conference is unanimously agreed upon any person who fulfils the required conditions, he may be included in its list, even though he was not included in the list of nominations referred to in Article 7.

“ 3. If the joint conference is satisfied that it will not be successful in procuring an election, those members of the Court who have already been elected shall, within a period to be fixed by the Security Council, proceed to fill the vacant seats by selection from among those candidates who have obtained votes either in the General Assembly or in the Security Council.

“ 4. In the event of an equality of votes among the judges, the eldest judge shall have a casting vote.”

*“ Article 14*

“ Vacancies shall be filled by the same method as that laid down for the first election, subject to the following provision: the Secretary-General shall, within one month of the occurrence of the vacancy, proceed to issue the invitations provided for in Article 5, and the date of the election shall be fixed by the Security Council.”

PROVISIONAL RULES OF PROCEDURE

*Rule 61*

*Relations with other United Nations Organs*

“ Any meeting of the Security Council held in pursuance of the Statute of the International Court of Justice for the purpose of the election of members of the Court shall continue until as many candidates as are required for all the seats to be filled have obtained in one or more ballots an absolute majority of votes.”

CASE 6

At the 733rd meeting on 6 September 1956, the Security Council noted with regret the death of Judge

Hsu Mo and decided, under Article 14 of the Statute, that an election to fill the vacancy for the remainder of the term of Judge Hsu Mo should take place during the eleventh session of the General Assembly.<sup>49</sup>

At the 757th meeting on 19 December 1956, the Council had before it an agenda item: “ Election of a member of the International Court of Justice to fill the vacancy caused by the death of Judge Hsu Mo ”.<sup>50</sup> The representative of China expressed surprise at the inclusion of the names of Mr. Tien-Hsi Cheng and Mr. Yuen-li Liang in the ballot paper distributed by the Secretariat, since these two gentlemen had already indicated their unwillingness to be candidates and their refusals had already been communicated to the Council by the Secretary-General in documents S/3662/Add.2 and Add.5 respectively.<sup>51</sup>

In reply, the President (Peru) explained that the documents circulated by the Secretariat had been drawn up in accordance with Article 7 of the Statute and that the inclusion of the names of Mr. Cheng and Mr. Liang was a formality which had to be observed. In voting, however, members would take into account the facts indicated by the representative of China. The President noted that Mr. Plinio Bolla of Switzerland had also withdrawn his candidacy.<sup>52</sup>

At the 757th, 758th and 759th meetings, on 19 December 1956, the Council elected Mr. Wellington Koo to fill the vacancy, but he did not receive the required majority of votes in the General Assembly.<sup>53</sup>

At the 760th meeting on 11 January 1957, the Council elected the same candidate for the fourth time. The same candidate also received an absolute majority of votes in the General Assembly.<sup>54</sup>

CASE 7

At the 793rd meeting on 1 October 1957, the Security Council proceeded to the election of five members of the International Court of Justice to fill five seats which were to fall vacant on 5 February 1958. Prior to the balloting, the President (France) stated:

“ In regard to the voting procedure, I think I should remind the members of the Council that if, after the first vote, more than five candidates have an absolute majority, the Council will have to vote again. If, on the other hand, fewer than five candidates receive such a majority, the Council will likewise have to vote again, but only to fill the places that remain vacant. The meeting will continue until five candidates have been elected with the required majority.”

A vote was then taken by secret ballot and five candidates obtained the required majority. After stating that

<sup>49</sup> 733rd meeting: para. 2.

<sup>50</sup> 757th meeting: preceding para. 1.

<sup>51</sup> 757th meeting: para. 6.

<sup>52</sup> 757th meeting: paras. 9-10.

<sup>53</sup> 757th meeting: paras. 12-13; 758th meeting: paras. 1-3; 759th meeting: paras. 1-3, 8.

<sup>54</sup> 760th meeting: paras. 38-39.

he would inform the President of the General Assembly of the result of the voting, the President reminded the members that the Council must remain in session until the President of the Assembly had informed the Council of the result obtained in the Assembly. The meeting was then suspended. When it was resumed, the President announced that he had been notified by the President of the General Assembly that at its 695th meeting on the same date, five candidates had obtained an absolute majority of votes. Four of these candidates had also obtained the required majority in the Council and were therefore declared elected. The President announced that both the General Assembly and the Security Council would hold new meetings that afternoon to fill the remaining vacancy.

At the 794th meeting on 1 October 1957, the Security Council proceeded with a special ballot for the purpose of filling the fifth vacancy. The President (France) reminded the members of the Council that they were to vote for one candidate only and that ballot sheets on which more than one name appeared would be considered invalid. As no candidate obtained the required majority, the Council proceeded to another vote, at which it elected a candidate to fill the vacant seat. The President then suspended the meeting. When it was resumed, he announced that he had been notified by the President of the General Assembly that the same candidate had also obtained the required majority of votes in the Assembly and had therefore been declared elected.<sup>65</sup>

#### CASE 8

At the 840th meeting on 25 November 1958, the Security Council noted with regret the death of Judge José G. Guerrero and decided, under Article 14 of the Statute, that an election to fill the vacancy for the remainder of the term of Judge Guerrero should take place during the fourteenth session of the General Assembly, or during a special session before the four-

<sup>65</sup> For texts of relevant statements, see :

793rd meeting : President (France), paras. 6, 8-10; 794th meeting : President (France), paras. 1-5.

teenth session.<sup>66</sup> In submitting the relevant draft resolution,<sup>67</sup> which was adopted unanimously, the President (Panama) observed that :<sup>68</sup>

“When it is stated in the operative part of the draft resolution that the election shall take place at the fourteenth session of the General Assembly or during a special session before the fourteenth session, we mean to refer to a special session as provided for under rule 8, paragraph (a), of the rules of procedure of the General Assembly. I say this in order to avoid any possible misunderstanding as to the meaning of that term ‘special session’, which is not to be understood as one that would cover the cases where an emergency session would be convened. It is a special session as described in rule 8, paragraph (a), of the rules of procedure.”

#### \*\*E. RELATIONS WITH SUBSIDIARY ORGANS ESTABLISHED BY THE GENERAL ASSEMBLY

#### F. RECEPTION OF RECOMMENDATIONS TO THE SECURITY COUNCIL ADOPTED BY THE GENERAL ASSEMBLY IN THE FORM OF RESOLUTIONS<sup>69</sup>

[*Note* : The Security Council, in agreeing to consider a General Assembly recommendation, has done so by placing the recommendation of the Assembly on the Council's agenda. There have been only two such recommendations during the period under review.<sup>69</sup>]

<sup>66</sup> 840th meeting (PV) : p. 11.

<sup>67</sup> S/4118.

<sup>68</sup> 840th meeting (PV) : p. 11.

<sup>69</sup> For previous tabulations, see *Repertoire of the Practice of the Security Council, 1946-1951*, p. 22; and *Supplement, 1952-55*, p. 80.

<sup>69</sup> By letter dated 2 January 1958 to the President of the Security Council, the Secretary-General drew attention to General Assembly resolution 1235 (XII) which requested him “subject to any objection which may be received from the Security Council to take appropriate steps to effect the integration of the civilian staff of the Military Staff Committee with the Secretariat of the United Nations”. In his letter, the Secretary-General also referred to the administrative arrangements implied in the proposed personnel integration and suggested that the Council might consider the question. The matter has not been considered by the Council.

#### TABULATION OF RECOMMENDATIONS

| <i>Entry No.</i> | <i>General Assembly resolution</i>    | <i>Subject of recommendation</i>  | <i>Initial Proceedings of the Security Council</i>   |
|------------------|---------------------------------------|---|--|
| 1. . . . .       | 1017 A and B (XI)<br>28 February 1957 | Admission of new Members to the United Nations (Republic of Korea and Viet-Nam) | Included as sub-paragraph (a) under the heading of Admission of new Members in the agenda at the 790th meeting on 9 September 1957     |
| 2. . . . .       | 1114 A and B (XII)<br>23 October 1957 | Admission of new Members to the United Nations (Republic of Korea and Viet-Nam) | Included as sub-items (b) and (c) under the headings of Admission of new Members in the agenda at the 843rd meeting on 9 December 1958 |

## G. REPORTS OF THE SECURITY COUNCIL TO THE GENERAL ASSEMBLY

### "Article 24 (3) of the Charter

"The Security Council shall submit annual and, when necessary, special reports to the General Assembly for its consideration."

[Note: In accordance with Article 24 (3), the Security Council has continued, during the period under review, to submit annual reports to the General Assembly.<sup>61</sup> In addition to transmitting to the General Assembly its

<sup>61</sup> Annual reports approved by the Security Council at the following meetings held in private: 11th Report, 733rd meeting, 6 September 1956; 12th Report, 785th meeting, 21 August 1957; 13th Report, 839th meeting, 28 August 1958.

recommendations concerning several applications for membership,<sup>62</sup> pursuant to paragraph 2 of rule 60 of its provisional rules of procedure, the Security Council has twice, following its 790th meeting on 9 September 1957, and its 843rd meeting on 9 December 1958, submitted special reports<sup>63</sup> to the General Assembly concerning the question of admission of new Members, in accordance with paragraph 3 of rule 60 of the provisional rules of procedure.]

<sup>62</sup> Sudan (A/3125, 16 May 1956); Morocco (A/3152, 27 July 1956); Tunisia (A/3153, 27 July 1956); Japan (A/3447, 12 December 1956); Ghana (A/3567, 7 March 1957); Malaya (A/3654, 5 September 1957); and Guinea (A/4060, 9 December 1958).

<sup>63</sup> A/3662 and A/4067.

## Part II

### \*\*RELATIONS WITH THE ECONOMIC AND SOCIAL COUNCIL

## Part III

### RELATIONS WITH THE TRUSTEESHIP COUNCIL

#### \*\*A. PROCEDURE UNDER ARTICLE 83 (3) IN APPLICATION OF ARTICLES 87 AND 88 OF THE CHARTER WITH REGARD TO STRATEGIC AREAS UNDER TRUSTEESHIP

#### B. TRANSMISSION TO THE SECURITY COUNCIL BY THE TRUSTEESHIP COUNCIL OF QUESTIONNAIRES AND REPORTS

During the period under review, no questionnaires have been transmitted to the Security Council by the Trusteeship Council. The report of the latter body on the exercise of its functions in respect of the strategic areas under trusteeship have, therefore, continued to be based on the revised questionnaire transmitted to the Security Council on 24 July 1953.<sup>64</sup>

<sup>64</sup> S/3065.

Between 1 January 1956 and 31 December 1958, the Secretary-General transmitted to the Security Council the following reports of the Trusteeship Council on the Trust Territory of the Pacific Islands, which has continued to be the only territory designated as a strategic area:

Eighth Report adopted during the eighteenth session of the Trusteeship Council, 10 August 1956.<sup>65</sup>

Ninth Report adopted during the twentieth session of the Trusteeship Council, 12 July 1957.<sup>66</sup>

Tenth Report adopted during the twenty-second session of the Trusteeship Council, 1 August 1958.<sup>67</sup>

<sup>65</sup> S/3636, O.R., 11th year, Special Suppl. No. 1, pp. 1-88.

<sup>66</sup> S/3852, O.R., 12th year, Special Suppl. No. 1, pp. 1-45.

<sup>67</sup> S/4076, O.R., 13th year, Special Suppl. No. 1, pp. 1-47.

## Part IV

### \*\*RELATIONS WITH THE INTERNATIONAL COURT OF JUSTICE

## Part V

### \*\*RELATIONS WITH THE MILITARY STAFF COMMITTEE

**Chapter VII**

**PRACTICES RELATIVE TO RECOMMENDATIONS TO THE  
GENERAL ASSEMBLY REGARDING THE ADMISSION OF  
NEW MEMBERS**

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## INTRODUCTORY NOTE

The material covered in this chapter is dealt with on lines similar to those followed in the first supplement to the *Repertoire*. Part I sets forth in tabular form the applications considered and the decisions taken by the Council during the period under review. The other portions of this chapter concern the procedures employed by the Council in dealing with questions of admission.

Compared with the discussions of the Council on such questions during the periods covered in the previous volumes of the *Repertoire*, the proceedings of the Council in respect of admission of new Members in the years 1956-1958 have not involved so large a range of constitutional or procedural questions. Many headings in this chapter consequently remain blank, including, in particular, parts II and VI.

### Part I

## TABLE OF APPLICATIONS, 1956-1958, AND OF ACTIONS TAKEN THEREON BY THE SECURITY COUNCIL

### NOTE

The following table represents a continuation of the one in the previous volumes where its organization is explained. The modifications introduced in the tabulation contained in the last volume have been maintained.

### A. APPLICATIONS RECOMMENDED BY THE SECURITY COUNCIL

In the period 1 January 1956-31 December 1958, the Security Council recommended the following States for admission to membership in the United Nations:

- (i) At the 716th meeting on 6 February 1956, the Sudan was unanimously recommended.
- (ii) At the 731st meeting on 20 July 1956, Morocco was unanimously recommended.
- (iii) At the 732nd meeting on 20 July 1956, Tunisia was unanimously recommended.
- (iv) At the 756th meeting on 12 December 1956, Japan was unanimously recommended.
- (v) At the 775th meeting on 7 March 1957, Ghana was unanimously recommended.
- (vi) At the 786th meeting on 5 September 1957, the Federation of Malaya was unanimously recommended.
- (vii) At the 842nd meeting on 9 December 1958, the Republic of Guinea was recommended by 10 votes in favour, none against, with 1 abstention.

### B. APPLICATIONS WHICH FAILED TO OBTAIN A RECOMMENDATION

The following applications failed to obtain the Council's recommendation up to the end of 1958:

- (i) Mongolian People's Republic.<sup>1</sup>
- (ii) Republic of Korea.<sup>2</sup>
- (iii) Democratic People's Republic of Korea.<sup>3</sup>
- (iv) Viet-Nam.<sup>4</sup>
- (v) Democratic Republic of Viet-Nam.<sup>5</sup>

### C. DISCUSSION OF THE QUESTION IN THE COUNCIL FROM 1956-1958

[*Note:* The system of debates used for the sake of convenience in the previous volumes is not followed in the present chapter inasmuch as it is unsuited to the nature of the proceedings of the Council since the beginning of 1956.]

The Council has held a total of ten meetings<sup>6</sup> on questions of admission during this period of three years, and six of these meetings<sup>7</sup> involved separate discussion of the applications of new States.

<sup>1</sup> Received less than 7 affirmative votes.

<sup>2</sup> Failed to obtain recommendation owing to the negative vote of a permanent member.

<sup>3</sup> Received less than 7 affirmative votes.

<sup>4</sup> Failed to obtain recommendation owing to the negative vote of a permanent member.

<sup>5</sup> Received less than 7 affirmative votes.

<sup>6</sup> 716th (6 February 1956), 731st (20 July 1956), 732nd (26 July 1956), 756th (12 December 1956), 775th (7 March 1957), 786th (5 September 1957), 789th and 790th (both on 9 September 1957), 842nd and 843rd (both on 9 December 1958).

<sup>7</sup> 716th (Sudan); 731st (Morocco); 732nd (Tunisia); 775th (Ghana); 786th (Malaya); 842nd (Republic of Guinea).



## D. APPLICATIONS PENDING ON 1 JANUARY 1956

| <i>Applicant</i>                                | <i>Date of Application</i>                                 | <i>Document</i>   |
|---|--|---|
| Mongolian People's Republic . . . . .           | 24 June 1946   | O.R. Suppl. 4, 1st yr., 2nd series, Annex 6 (3), pp. 48-49 (S/95)   |
| Republic of Korea . . . . .                     | 19 January 1949  | O.R. Suppl. Feb. 1949, 4th yr., p. 5 (S/1238)   |
| Democratic People's Republic of Korea . . . . . | 9 February 1949  | O.R. 12, 4th yr., p. 18 (S/1247)  |
| Viet-Nam . . . . .                              | 17 December 1951   | O.R., 7th yr., Suppl. for Jan.-Mar. 1952, p. 1 (S/2446)   |
| Democratic Republic of Viet-Nam . . . . .       | (i) 22 November 1948 <sup>a</sup><br>(ii) 29 December 1951 | O.R., 7th yr., Suppl. for July-Sept. 1952, pp. 57-58 (S/2780)<br>O.R., 7th yr., Suppl. for Jan.-Mar. 1952, pp. 3-4 (S/2466) |
| Japan . . . . .                                 | 16 June 1952   | O.R., 7th yr., Suppl. for Apr.-June 1952, pp. 19-20 (S/2673)  |

<sup>a</sup> Circulated on 17 September 1952 as S/2780. (See *Repertoire*, Suppl. 1952-1955, p. 91, Case 1.)

## E. APPLICATIONS SUBMITTED BETWEEN 1 JANUARY 1956 AND 31 DECEMBER 1958

| <i>Applicant</i>               | <i>Date of Application</i> | <i>Document <sup>a</sup></i>                                   |
|--------------------------------|----------------------------|--|
| Sudan . . . . .                | 21 January 1956            | O.R., 11th yr., Suppl. for Jan.-Mar. 1956, pp. 10-11 (S/3543)  |
| Morocco . . . . .              | 4 July 1956                | O.R., 11th yr., Suppl. for July-Sept. 1956, p. 1 (S/3617)      |
| Tunisia . . . . .              | 14 July 1956               | O.R., 11th yr., Suppl. for July-Sept. 1956, pp. 4-5 (S/3622)   |
| Ghana . . . . .                | 7 March 1957               | O.R., 11th yr., Suppl. for Jan.-Mar. 1957, p. 10 (S/3797)      |
| Federation of Malaya . . . . . | 31 August 1957             | O.R., 12th yr., Suppl. for July-Sept. 1957, pp. 22-23 (S/3872) |
| Republic of Guinea . . . . .   | 3 December 1958            | S/4122   |

<sup>a</sup> Includes the formal declaration in each case.

## F. VOTES IN THE SECURITY COUNCIL (1956-1958) ON DRAFT RESOLUTIONS AND AMENDMENTS CONCERNING APPLICATIONS FOR ADMISSION TO MEMBERSHIP IN THE UNITED NATIONS

| <i>Draft resolution, etc.</i>   | <i>Subject of vote</i> | <i>Vote for</i> | <i>Vote ag.</i> | <i>Vote abst.</i> | <i>Meeting and date</i> | <i>Result of vote <sup>a</sup></i> |
|---|------------------------|-----------------|-----------------|-------------------|-------------------------|------------------------------------|
| <i>Sudan</i> , French-U.K.-U.S. d.r. (S. 3545) recommending admission . . . . . | Same                   | 11              | 0               | 0                 | 716th 6.2.56            | Adopted                            |
| <i>Morocco</i> , French d.r. (S. 3620) recommending admission . . . . .         | Same                   | 11              | 0               | 0                 | 731st 20.7.56           | Adopted                            |
| <i>Tunisia</i> , French d.r. (S. 3627) recommending admission . . . . .         | Same                   | 11              | 0               | 0                 | 732nd 26.7.56           | Adopted                            |

**F. VOTES IN THE SECURITY COUNCIL (1956-1958) ON DRAFT RESOLUTIONS AND AMENDMENTS CONCERNING APPLICATIONS FOR ADMISSION TO MEMBERSHIP IN THE UNITED NATIONS (cont'd.)**

| <i>Draft resolution, etc.</i>  | <i>Subject of vote</i> | <i>Vote for ag. abst.</i> |   |   | <i>Meeting and date</i> | <i>Result of vote <sup>a</sup></i> |
|--|------------------------|---------------------------|---|---|-------------------------|------------------------------------|
| <i>Japan, Peru d.r. (S/3754) recommending admission . . . . .</i>  | Same                   | 11                        | 0 | 0 | 756th 12.12.56          | Adopted                            |
| <i>Mongolian People's Republic, USSR d.r. (S/3755) recommending admission . . . . .</i>  | Same                   | 4                         | 2 | 5 | 756th 12.12.56          | Not adopted                        |
| <i>Ghana, Australian-U.K. d.r. (S/3800) recommending admission . . . . .</i>   | Same                   | 11                        | 0 | 0 | 775th 7.3.57            | Adopted                            |
| <i>Malaya, Australian-U.K. d.r. (S/3876) recommending admission . . . . .</i>  | Same                   | 11                        | 0 | 0 | 786th 5.9.57            | Adopted                            |
| <i>Democratic People's Republic of Korea, USSR amendment (S/3887) to joint d.r. (S/3884) — see below . . . . .</i>                         | Same                   | 1                         | 9 | 1 | 790th 9.9.57            | Not adopted                        |
| <i>Republic of Korea, Australia, China, Colombia, Cuba, France, Philippines, U.K., U.S. d.r. (S/3884) recommending admission . . . . .</i> | Same                   | 10                        | 1 | 0 | 790th 9.9.57            | Not adopted                        |
| <i>Viet-Nam, Australia, China, Colombia, Cuba, France, Philippines, U.K., U.S. d.r. (S/3885) recommending admission . . . . .</i>          | Same                   | 10                        | 1 | 0 | 790th 9.9.57            | Not adopted                        |
| <i>Mongolian People's Republic, USSR d.r. (S/3877) recommending admission . . . . .</i>  | Same                   | 2                         | 5 | 4 | 790th 9.9.57            | Not adopted                        |
| <i>Republic of Guinea, Iraq-Japan d.r. (S/4131) . . . . .</i>  | Same                   | 10                        | 0 | 1 | 842nd 9.12.58           | Adopted                            |
| <i>Democratic People's Republic of Korea, USSR amendment (S/4132) to joint d.r. (S/3129/Rev.1) — see below . . . . .</i>                   | Same                   | 1                         | 8 | 2 | 843rd 9.12.58           | Not adopted                        |
| <i>Republic of Korea, France, Japan, U.K., U.S. d.r. (S/4129/Rev.1) recommending admission . . . . .</i>                                   | Same                   | 9                         | 1 | 1 | 843rd 9.12.58           | Not adopted                        |
| <i>Viet-Nam, France, Japan, U.K., U.S. d.r. (S/4130/Rev.1) recommending admission . . . . .</i>  | Same                   | 8                         | 1 | 2 | 843rd 9.12.58           | Not adopted                        |

<sup>a</sup> Both the subject and the result of the vote are usually given in the form announced by the President.

**\*\*Part II**

**CONSIDERATION OF THE ADOPTION OR AMENDMENT OF RULES 58, 59 AND 60 OF THE PROVISIONAL RULES OF PROCEDURE**

**Part III**

**PRESENTATION OF APPLICATIONS**

**NOTE**

Part III of this chapter sets forth material concerning the presentation of applications up to the point at which the Security Council considers an item on the agenda, that is, the submission of applications to the Secretary-General, their communication to representatives on the Council and their subsequent inclusion in the provisional agenda.

The following list<sup>a</sup> completes, for the period under review, the historical data set forth in the previous volumes concerning presentation of applications:

<sup>a</sup> The list does not cover renewals of applications, since in practice applications have been regarded both by the Security Council and the General Assembly as pending so long as admission has not been effected.

(ix) In 1956<sup>9</sup>

|                   |                 |
|-------------------|-----------------|
| Sudan . . . . .   | 21 January 1956 |
| Morocco . . . . . | 4 July 1956     |
| Tunisia . . . . . | 14 July 1956    |

<sup>9</sup> Sudan, S/3543, *O.R.*, 11th year, *Suppl. for Jan.-Mar. 1956*, pp. 10-11; Morocco, S/3617, *O.R.*, 11th year, *Suppl. for July-Sept. 1956*, p. 1; Tunisia, S/3622, *O.R.*, 11th year, *Suppl. for July-Sept. 1956*, pp. 4-5.

(x) In 1957<sup>10</sup>

|                                |                |
|--------------------------------|----------------|
| Ghana . . . . .                | 7 March 1957   |
| Federation of Malaya . . . . . | 31 August 1957 |

(xi) In 1958<sup>11</sup>

|                              |                 |
|------------------------------|-----------------|
| Republic of Guinea . . . . . | 3 December 1958 |
|------------------------------|-----------------|

<sup>10</sup> Ghana, S/3797, *O.R.*, 12th year, *Suppl. for Jan.-Mar. 1957*, p. 10; Malaya, S/3872, *O.R.*, 11th year, *Suppl. for July-Sept. 1956*, p. 1.

<sup>11</sup> Republic of Guinea, S/4122.

## Part IV

## REFERENCE OF APPLICATIONS TO THE COMMITTEE ON THE ADMISSION OF NEW MEMBERS

## NOTE

During the period covered by this volume, the Security Council has not referred any application to its Committee on the Admission of New Members. No proposal to refer applications to the Committee has been made during this period. Summaries of the relevant intervention in three cases are provided as illustrations of the Council's practices as regards newly submitted applications. Two other cases deal with actions taken by the Council in connexion with applications whose reconsideration had been requested by the General Assembly.

## A. BEFORE A RECOMMENDATION HAS BEEN FORWARDED OR A REPORT SUBMITTED TO THE GENERAL ASSEMBLY

## \*\*1. Applications referred to the Committee by the President

## \*\*2. Applications referred to the Committee by decisions of the Security Council

## 3. Applications considered by the Security Council without reference to the Committee

## CASE 1

At the 716th meeting on 6 February 1956, in connexion with the application of the Sudan, a number of representatives suggested that the Council dispense with referring the application to the Committee on the Admission of New Members. The representative of Australia supported the suggestion, noting that:

"It seems clear that there is no doubt in the minds of members of the Security Council regarding the Sudan's qualifications for membership of the United Nations."

However, he added that:

"...such reference would not in itself cast any reflection upon any country whose application might be dealt with in that way. The provisions of rule 59 regarding reference to a committee on new Members are clear and, in our opinion, should be applied as

a matter of course unless, as we expect in this case, the Council decides otherwise. In the process that led to the admission of so many outstanding applications by the General Assembly in December 1955, there was perhaps little need to call on the Committee of the Council, and I am very happy to agree that it is not necessary on this occasion. However, in the Australian view, this is not a precedent, and future applicants should not feel that they are being singled out for undue critical attention if the Security Council in the future permits their applications to be referred to the Committee under rule 59."

There being no objection, the Council proceeded to adopt a draft resolution recommending the admission of the Sudan.<sup>12</sup>

## CASE 2

At the 731st meeting on 20 July 1956, in connexion with the application of Morocco, the representative of France stated that:

"...it is self-evident that there is little point in referring its application to the Committee on the Admission of New Members, for the Council has for several years—and most recently in the case of the Sudan—waived this procedure in respect of all new candidates."

Similar views were expressed by various other members of the Council.

The representative of Australia observed that:

"Rule 59 of the rules of procedure, which provides—unless the Council decides otherwise—for applications for membership to be referred to a committee, affords a useful practice, in our view, for the consideration of cases in which there may be some doubt as to the qualifications, under the Charter, of an applicant for membership. Since it seems clear in

<sup>12</sup> For texts of relevant statements, see:

716th meeting: President (USSR), paras. 77-78; Australia, paras. 60-61; Iran, paras. 33-34; United Kingdom, para. 12; United States, para. 16.

the case of Morocco that all members of the Council agree that no such doubt does exist, the Australian delegation is happy to concur in the proposal of the French delegation that the application of rule 59 should be waived by the Council on this occasion."

There being no objection, the Council adopted a draft resolution recommending admission of Morocco.<sup>13</sup>

### CASE 3

At the 842nd meeting on 9 December 1958, in connexion with the application of the Republic of Guinea, the President suggested:

"... that the Council agree, as provided in rule 59 of the provisional rules of procedure, to consider this application directly without first referring it for examination to the Committee on the Admission of New Members."

There being no objection, the Council proceeded to adopt a draft resolution recommending the admission of the Republic of Guinea.<sup>14</sup>

#### \*\*4. Applications reconsidered by the Security Council after reference to the Committee

#### B. AFTER AN APPLICATION HAS BEEN SENT BACK BY THE GENERAL ASSEMBLY TO THE SECURITY COUNCIL FOR RECONSIDERATION

##### \*\*1. Applications referred to the Committee by the President

#### 2. Applications reconsidered by the Security Council without reference to the Committee

<sup>13</sup> For texts of relevant statements, see: 731st meeting: Australia, para. 38; France, para. 13; Iran, para. 30; United Kingdom, para. 17.

<sup>14</sup> 842nd meeting (PV): p. 9.

### CASE 4

At the 789th and 790th meetings on 9 September 1957, the Council considered, as sub-items (a) and (b) of its agenda, General Assembly resolution 1017 A and B (XI) of 28 February 1957, in which the Assembly *inter alia* requested the Council to reconsider, respectively, the applications of the Republic of Korea and of Viet-Nam. It also considered, as sub-item (c), communications concerning the application of the Mongolian People's Republic. The Council voted upon proposals<sup>15</sup> to recommend admission of each of these applicants and of the Democratic People's Republic of Korea. There was no suggestion or proposal that any of the applications should be referred to the Committee on the Admission of New Members.

### CASE 5

At the 843rd meeting on 9 December 1958, the Council considered as sub-items (b) and (c) of its agenda, General Assembly resolution 1114 A and B (XIII) of 25 October 1957, in which the Assembly required the Council to reconsider, respectively, the applications of the Republic of Korea and of Viet-Nam. The Council voted upon proposals<sup>16</sup> to recommend admission of each of these two applicants and of the Democratic People's Republic of Korea. No suggestion or proposal was made with a view to referring any of these applications to the Committee on the Admission of New Members.

<sup>15</sup> S/3884, O.R., 12th year, Suppl. for July-Sept. 1957, p. 37; joint draft resolution concerning the Republic of Korea; S/3887, O.R., 12th year, Suppl. for July-Sept. 1957, p. 37; USSR amendment concerning the Democratic People's Republic of Korea; S/3885, O.R., 12th year, Suppl. for July-Sept. 1957, p. 37; joint draft resolution concerning Viet-Nam; S/3877, O.R., 12th year, Suppl. for July-Sept. 1957, p. 33; USSR draft resolution concerning the Mongolian People's Republic.

<sup>16</sup> S/4129/Rev.1: joint draft resolution concerning the Republic of Korea; S/4132: USSR amendment concerning the Democratic People's Republic of Korea; S/4130/Rev.1: joint draft resolution concerning Viet-Nam.

## Part V

### PROCEDURES IN THE CONSIDERATION OF APPLICATIONS WITHIN THE SECURITY COUNCIL

#### NOTE

The material included in this part consists of three cases concerning the order in which applications were reconsidered and voted upon, and of two cases dealing with proposals calling for simultaneous admission of two applicants.

#### A. DISCUSSION OF APPLICATIONS

##### 1. Order of the discussion of applications

#### CASE 6

At the 789th meeting on 9 September 1957, the Council adopted the following agenda:

#### "Admission of new Members:

"(a) Resolution 1017(XI)A of the General Assembly, adopted on 28 February 1957; letter dated 4 March 1957 of the Secretary-General (S/3803); letter dated 4 September 1957 from the representative of the United States of America addressed to the President of the Security Council (S/3880)

"(b) Resolution 1017(XI)B of the General Assembly, adopted on 28 February 1957; letter dated 4 March 1957 of the Secretary-General (S/3803); letter dated 4 September 1957 from the representative of the United States of America addressed to the President of the Security Council (S/3881)

"(c) Cablegram dated 1 September 1957 from the Foreign Minister of the Mongolian People's Republic addressed to the President of the Security Council concerning its application for membership (S/3873); Letter dated 3 September 1957 from the representative of the Union of Soviet Socialist Republics addressed to the Secretary-General (S/3877)"

The representative of the USSR suggested that the Council discuss the three sub-items simultaneously and then proceed to separate votes.

The President (Cuba) expressed the view that "...in accordance with the practice followed by the Security Council, the sub-items should be discussed separately", and that that would also be in accordance with the advisory opinion of the International Court of Justice.<sup>17</sup>

The representative of the United States declared that it was well established that each application should be considered on its own merits, and that that argued for separate individual consideration.

The representative of the USSR said that he would not object to the procedure proposed by the President, and expressed the opinion that under it each delegation was entitled to set forth its position in a single statement if it so wished.

The President then stated:

"The Council will therefore now take up item 2 (a) of its agenda. This, of course, does not preclude members from speaking on any of the other sub-items on our agenda today."

The Council proceeded accordingly.<sup>18</sup>

## **\*\*2. Documentation submitted to the Security Council**

### **B. VOTING ON APPLICATIONS**

#### **\*\*1. Omission of voting on applications when previous position of members is unchanged**

##### **2. Time and order of voting on applications**

###### **CASE 7**

At the 790th meeting on 8 September 1957 (see Cases 3 and 4 above), the Council reconsidered four applications.<sup>19</sup> The relevant draft resolutions and amendment in relation to four applications were voted upon separately.

###### **CASE 8**

At the 790th meeting on 9 September 1957 (see Cases 3-5 above), the representative of the USSR for-

mally proposed that the Council "postpone a decision on the question of the admission of Viet-Nam" to membership in the United Nations until the country had become unified.<sup>20</sup>

Referring to this proposal, the President (Cuba) stated that:

"I wish to remind the Council that, under subparagraph 5 of rule 33 of the rules of procedure, the representative of the Soviet Union has proposed that the Council should postpone discussion of this question until Viet-Nam has been unified through free elections..."<sup>21</sup>

The USSR proposal, as formulated by the President, was rejected by 1 vote in favour to 10 against.

#### **3. Consideration of a proposal recommending the admission of a number of applicant States**

##### **CASE 9**

At the 789th meeting on 9 September 1957, the Council had before it a joint draft resolution<sup>22</sup> by which it would recommend admission of the Republic of Korea. The representative of the USSR submitted an amendment<sup>23</sup> to this draft resolution, whereby the Council would recommend that the Democratic People's Republic of Korea and the Republic of Korea be admitted simultaneously. The USSR amendment was voted upon at the 790th meeting, also on 9 September 1957, and was rejected by 1 vote in favour to 9 against, with 1 abstention.

##### **CASE 10**

At the 843rd meeting on December 1958, the Council had before it a joint draft resolution<sup>24</sup> whereby it would recommend admission of the Republic of Korea. The representative of the USSR submitted an amendment<sup>25</sup> to this draft resolution, by which the Council would recommend that the Democratic People's Republic of Korea and the Republic of Korea be admitted simultaneously. The USSR amendment was rejected by 1 vote in favour to 8 against, with 2 abstentions.

#### **\*\*4. The question of submission of a draft resolution with a view to voting on an application**

#### **\*\*5. Conflict between a proposal to recommend admission and a proposal to postpone voting**

#### **\*\*6. Consideration of a draft resolution to note the qualifications of an applicant for membership**

<sup>17</sup> ICJ Reports, 1948.

<sup>18</sup> For texts of relevant statements, see:

789th meeting: President (Cuba), para. 10; USSR, paras. 1, 2, 9; United States, paras. 7-8.

<sup>19</sup> See Case 3, footnote.

<sup>20</sup> 790th meeting: para. 45.

<sup>21</sup> 790th meeting: para. 54.

<sup>22</sup> S 3884, O.R., 12th year, Suppl. for July-Sept. 1957, p. 37.

<sup>23</sup> S 3887, O.R., 12th year, Suppl. for July-Sept. 1957, p. 37.

<sup>24</sup> S/4129/Rev.1.

<sup>25</sup> S/4132.

## **\*\*Part VI**

### **THE ROLE OF THE GENERAL ASSEMBLY AND THE SECURITY COUNCIL**

**Chapter VIII**

**CONSIDERATION OF QUESTIONS UNDER THE COUNCIL'S  
RESPONSIBILITY FOR THE MAINTENANCE OF  
INTERNATIONAL PEACE AND SECURITY**

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## INTRODUCTORY NOTE

The principles underlying the organization and presentation of the material presented in chapters VIII-XII of this *Supplement* are the same as for the previous volumes of the *Repertoire*. Those volumes should be consulted for a full statement of such principles.

Chapter VIII indicates the chain of proceedings on the substance of each of the questions included in the Report of the Security Council to the General Assembly under the heading: "Questions considered by the Security Council under its responsibility for the maintenance of international peace and security". The range of questions covers broadly those which may be deemed to fall under Chapters VI and VII of the Charter. In chapters X, XI and XII of the *Repertoire* is presented ancillary material from the Official Records bearing on relevant Articles of the Charter. References to the ancillary material are given at the appropriate points in the entries for each question in this chapter.

Chapter VIII, as an outline of the proceedings of the Council in respect of the questions included in its agenda, constitutes a framework within which the ancillary legal and constitutional discussion recorded in chapters X to XII may be considered. The chapter is, therefore, an aid to the examination of the deliberations of the Council expressly related to the provisions of the Charter within the context of the chain of proceedings on the agenda item.

The questions are dealt with in the chronological order of their inclusion in the agenda of the Council<sup>1</sup> and with regard to the Palestine question<sup>2</sup> and the India-Pakistan question,<sup>3</sup> which were included in the Council's agenda before the period under review, in the order of resumption of their consideration by the Council. In respect of each question, there is given at the outset a summary of the case presented to the Council,

<sup>1</sup> For a tabulation of the data on submission, see chapter X, part. III.

<sup>2</sup> *Repertoire of the Practice of the Security Council 1946-1951*, pp. 325-344; *Repertoire of the Practice of the Security Council, Supplement, 1952-1955*, pp. 110-118.

<sup>3</sup> *Repertoire of the Practice of the Security Council, 1946-1951*, pp. 344-352; *Repertoire of the Practice of the Security Council, Supplement, 1952-1955*, pp. 107-109.

together with a summary of the contentions made in rebuttal.

The framework of the material for each question is provided by the succession of affirmative and negative decisions within the purview of this chapter. Decisions related to the subject matter of chapters I-VI of the *Repertoire* are, with certain exceptions, omitted as not relevant to the purpose of this chapter or of the ancillary chapters X-XII. The decisions are entered in uniform manner. Affirmative decisions are entered under a heading indicative of the content of the decision, and negative decisions are entered under a heading indicative solely of the origin of the proposal or draft resolution. Affirmative decisions have been reproduced in full as constitutive of the practice of the Council, while negative decisions are indicated in summarized form. Where the negative decision relates to a draft resolution in connexion with which discussion has taken place concerning the application of the Charter, the text of the relevant parts of the draft resolution will in most instances be found in chapters X-XII.

As in the previous volumes of the *Repertoire*, an analytical table of measures adopted by the Council arranged broadly by types of measures has been included as part I of chapter VIII. This table should be regarded as of the nature of an index to chapter VIII; and no constitutional significance should be attached to the headings adopted in the compilation of this table nor to the inclusion of particular measures under the individual headings. At the end of the table, under a new heading, have been added measures adopted by the Council, in three separate instances, to convene an emergency special session of the General Assembly in accordance with General Assembly resolution 377 A (V).

Much of the activity of the Council in connexion with Chapters VI and VII of the Charter has taken place through the instrumentality of subsidiary organs established to operate in the area of the dispute. As previously, no attempt has been made to reproduce within the *Repertoire* material relating to the organization and procedures of such subsidiary bodies save where questions relating to their organization and procedure have constituted an aspect of the proceedings of the Council itself.

### Part I

## ANALYTICAL TABLE OF MEASURES ADOPTED BY THE SECURITY COUNCIL

### NOTE

The entries in this tabulation are restricted to a reference to the question, the date of the decision and the serial number of the decision in the S/ series documents.

### I. Preliminary measures for the elucidation of fact

- A. Hearing of interested governments and authorities.  
(For invitations extended to interested governments and authorities, see chapter III.)



**II. Determination of the nature of the question**

- A. Determination of the existence of a dispute or situation the continuance of which is likely to endanger the maintenance of international peace and security.

Palestine question :

Decision of 4 April 1956 (S/3575), para. 1.

**III. Injunctions to governments and authorities involved in hostilities**

- A. Precautionary action.

(i) India-Pakistan question :

Decision of 2 December 1957 (S/3922), para. 1.

(ii) Lebanon question :

Decision : President's statement of 22 July 1958.

- B. Establishment and maintenance of an armistice.

Palestine question :

Decision of 4 April 1956 (S/3575), para. 4.

Decision of 4 June 1956 (S/3605), para. 6.

Decision of 22 January 1958 (S/3942), paras. 5-6.

**IV. Measures in connexion with injunctions to be taken by the governments and authorities directly involved in hostilities**

- A. Withdrawal of fighting personnel.

Palestine question :

Decision of 4 April 1956 (S/3575), para. 3a.

- B. Demilitarization of an area.

India-Pakistan question :

Decision of 2 December 1957 (S/3922), preamble, para. 6.

- C. Freedom of movement and safe conduct of supervision personnel.

Palestine question :

Decision of 4 April 1956 (S/3575), para. 3b.

Decision of 4 June 1956 (S/3605), para. 3.

- D. Co-operation in preventing infiltration and incidents.

Palestine question :

Decision of 19 January 1956 (S/3538), para. 2, 6.

- E. Exchange of military prisoners.

Palestine question :

Decision of 19 January 1956 (S/3538), para. 8.

- F. Establishment of local arrangements for the prevention of incidents and the prompt detection of any violation of the armistice agreements.

Palestine question :

Decision of 4 April 1956 (S/3575), para. 3c.

- G. Co-operation of the parties to prevent recurrences of incidents.

Palestine question :

Decision : President's statement of 15 December 1958.

**\*\*V. Measures in connexion with injunctions to be taken by other governments and authorities****VI. Measures for settlement**

- A. Procedures of pacific settlement noted, advised or recommended.

(i) Sudan question :

Decision : President's statement of 21 February 1958.

(ii) Tunisian question (II) :

Decision : President's statement of 4 June 1958.

- B. Provisions bearing on issues of substance, including terms of settlement.

1. Determination of accession of territory by plebiscite.

India-Pakistan question :

Decision of 24 January 1957 (S/3779), para. 2.

Decision of 2 December 1957 (S/3922), preamble, para. 4.

2. Election of a constituent assembly.

India-Pakistan question :

Decision of 24 January 1957 (S/3779), para. 3.

3. Requirements to be met in any settlement.

Situation created by the unilateral action of the Egyptian Government in bringing to an end the system of international operation of the Suez Canal, which was confirmed and completed by the Suez Canal Convention of 1888 :

Decision of 13 October 1956 (S/3675), para. 2.

**VII. Measures to promote the implementation of resolutions of the Security Council**

- A. Notice of possible consideration of further measures under the Charter.

Palestine question :

Decision of 19 January 1956 (S/3538), para. 5.

- B. Establishment or employment of subsidiary organs.

1. To make recommendations to the parties.

India-Pakistan question :

Decision of 2 December 1957 (S/3922), paras. 2-3.

2. To assure against illegal infiltration.

Lebanon question :

Decision of 11 June 1958 (S/4023), operative paras. 1-2.

- C. Intercession by the President.

India-Pakistan question :

Decision of 21 February 1957 (S/3793), para. 1.

- D. Endorsement of decisions of subsidiary organs.

Palestine question :

Decision of 22 January 1958 (S/3942), para. 3.

- E. Reaffirmation of previous decisions.

(i) Palestine question :

Decision of 19 January 1956 (S/3538), preamble, para. 1.

Decision of 4 April 1956 (S/3575), preamble, paras. 1-2.

Decision of 4 June 1956 (S/3605), preamble, para. 1.

(ii) India-Pakistan question :

Decision of 24 January 1957 (S/3779), paras. 2-3.

Decision of 21 February 1957 (S/3793), preamble.

Decision of 2 December 1957 (S/3922), preamble, para. 7.

- F. Finding of a violation of a Security Council cease-fire injunction and of the obligation of a party.

Palestine question :

Decision of 19 January 1956 (S/3538), paras. 3-4.

- G. Call upon the parties to co-operate fully with subsidiary organs.

Palestine question :

Decision of 19 January 1956 (S/3538), para. 9.

Decision of 4 June 1956 (S/3605), para. 2.

- H. Request to the Secretary-General to undertake a survey of the various aspects of enforcement of and compliance with armistice agreements.

Palestine question :

Decision of 4 April 1956 (S/3575), para. 2.

- I. Expression of censure of retaliatory action and condemnation of attack by armed forces.

Palestine question :

Decision of 19 January 1956 (S/3538), preamble, para. 4, operative paras. 1-4.

- J. Request to the Secretary-General to arrange with the parties for adoption of measures which would reduce existing tension along armistice lines.  
Palestine question :  
Decision of 4 April 1956 (S/3575), para. 3.
- K. Expression of concern over non-implementation of specific measures requested by the Security Council.  
Palestine question :  
Decision of 4 April 1956 (S/3575), preamble, para. 3.  
Decision of 4 June 1956 (S. 3605), preamble, para. 5.
- L. Noting assurances given by the parties unconditionally to observe cease fire.  
Palestine question :  
Decision of 4 June 1956 (S/3605), preamble, para. 3.
- M. Noting progress made toward the adoption of measures requested by the Security Council.  
Palestine question :  
Decision of 4 June 1956 (S/3605), preamble, para. 4.
- N. Endorsement of views of the Secretary-General :  
Palestine question :  
Decision of 4 June 1956 (S. 3605), para. 4.
- O. Invitation to the parties to co-operate with the President in examination of proposals for the settlement.  
India-Pakistan question :  
Decision of 21 February 1957 (S/3793), para. 2.
- P. Request to the Secretary-General and to the United Nations Representative for India and Pakistan to render to the President such assistance as he might request.  
India-Pakistan question :  
Decision of 21 February 1957 (S/3793), para. 3.
- Q. Directive to the Chief of Staff of the United Nations Truce Organization in Palestine to regulate activities within the zone between the armistice demarcation lines.  
Palestine question :  
Decision of 22 January 1958 (S, 3942), para. 1.
- R. Directive to the Chief of Staff to conduct survey of property records.  
Palestine question :  
Decision of 22 January 1958 (S/3942), para. 2.
- S. Noting of the intention of the Secretary-General to take up the situation for consideration.  
Palestine question :  
Decision : President's statement of 15 December 1958.
- VIII. Measures to ensure further consideration and to ascertain compliance**
- A. Request for information on the progress of settlement.  
1. From the Secretary-General.
- Palestine question :  
Decision of 4 April 1956 (S/3575), para. 5.  
Decision of 4 June 1956 (S/3605), para. 7.
2. From the subsidiary organs.  
(i) Palestine question :  
Decision of 19 January 1956 (S/3538), para. 7.  
Decision of 4 June 1956 (S/3605), para. 5.  
Decision : President's statement of 28 May 1957.  
Decision : President's statement of 6 September 1957.  
Decision of 22 January 1958 (S/3942), para. 7.  
(ii) India-Pakistan question :  
Decision of 2 December 1957 (S/3922), para. 4.  
(iii) Lebanon question :  
Decision of 11 June 1958 (S/4023), operative para. 3.
3. From the President.  
India-Pakistan question :  
Decision of 21 February 1957 (S/3793), para. 1.
- B. Provision by express decision to consider the matter further.  
India-Pakistan question :  
Decision of 24 January 1957 (S/3779), para. 4.
- C. Statement by the President that the Council would remain seized of the question.  
Situation created by the unilateral action of the Egyptian Government in bringing to an end the system of international operation of the Suez Canal, which was confirmed and completed by the Suez Canal Convention of 1888 :  
Decision : President's statement of 21 May 1957.
- IX. Measures in connexion with the inability of the Security Council to exercise its responsibility for the maintenance of international peace and security**
- A. Convocation of an emergency special session of the General Assembly under the provisions of General Assembly resolution 377 (V) of 3 November 1950.  
(i) Letter dated 30 October 1956 from the representative of Egypt addressed to the President of the Security Council (S/3712) :  
Decision of 31 October 1956 (S/3721).  
(ii) The situation in Hungary :  
Decision of 4 November 1956 (S/3733).  
(iii) Lebanon question :  
Decision of 7 August 1958 (S/4083).

## Part II

### THE PALESTINE QUESTION

Decision of 19 January 1956 (715th meeting):

- (i) *Condemning the attack of 11 December 1955 by Israel armed forces in the area east of Lake Tiberias as a flagrant violation of the cease-fire provisions of the Security Council resolution of 15 July 1948, of the terms of the General Armistice Agreement between Israel and Syria, and of Israel's obligation under the Charter ;*

- (ii) *Calling upon Israel to comply with its obligations in the future, in default of which the Council would consider further measures under the Charter to maintain or restore peace ;*
- (iii) *Calling upon the parties to comply with their obligations under the General Armistice Agreement, and requesting the Chief of Staff to pursue his suggestions for improving the situation in the area ;*

- (iv) *Calling upon the parties to arrange with the Chief of Staff for an immediate exchange of all military prisoners, and to co-operate with the Chief of Staff in this and all other respects, to carry out the provisions of the General Armistice Agreement in good faith, and in particular to make full use of the Mixed Armistice Commission's machinery in the interpretation and application of its provisions*

By letter<sup>1</sup> dated 13 December 1955, the permanent representative of Syria informed the President of the Security Council that, on the night of 11-12 December 1955, Israel armed forces had launched a concentrated large-scale attack along the whole area lying to the east of Lake Tiberias. After a fierce fight, they had occupied four observation posts parallel to the eastern shores of Lake Tiberias and lying on Syrian territory. As a result of the planned attack, five officers, thirty-two soldiers, and twelve civilians, including three women, had been killed; eight other soldiers had been wounded and thirty taken prisoner. In the course of the attack, a large number of houses belonging to Syrian villages had been destroyed and the occupants killed under the debris. The whole series of attacks constituted a most flagrant violation of the Syrian-Israel General Armistice Agreement and an act of open aggression and provocation. Accordingly, Syria requested the Security Council to meet as soon as possible to take the measures necessary to meet that serious situation.

At the 707th meeting of the Security Council on 16 December 1955, the provisional agenda<sup>2</sup> listed under the general heading, "The Palestine question":

"Letter dated 13 December 1955 from the representative of Syria addressed to the President of the Security Council."

The agenda was adopted<sup>3</sup> and the Security Council considered the question at its 707th, 709th, 710th, 711th, 712th, 713th, 714th and 715th meetings between 16 December 1955 and 19 January 1956. The representatives of Israel and Syria were invited to take part in the discussions.

At the 709th meeting on 22 December 1955, the Council had before it a report<sup>4</sup> dated 15 December 1955 from the Chief of Staff of the United Nations Truce Supervision Organization concerning the incidents in the area east of Lake Tiberias. In a supplementary report<sup>5</sup> dated 30 December 1955, the Chief of Staff dealt with additional evidence regarding the Lake Tiberias incidents.

At the same meeting, the representative of Syria submitted a draft resolution<sup>6</sup> under which the Security

Council would have: (1) condemned Israel for the attack carried out by its military forces on 12 December 1955; (2) decided that this action was a violation of the resolution of 15 July 1948, the Syrian-Israel Armistice Agreement and Israel's obligations under the Charter; (3) decided that the armed attack constituted an aggression under the provisions of Article 39 of the Charter; (4) called upon the Members of the United Nations to adopt the necessary measures for applying economic sanctions against Israel; (5) decided to expel Israel from the United Nations under Article 6 of the Charter for persistent violation of the Charter; (6) decided that Israel should pay adequate compensation for the loss of and damage to life and property caused by the attack; and (7) requested the Secretary-General to render to the Security Council progress reports on the implementation of this resolution.

At the same meeting, the representative of Israel\*, after referring to captured Syrian documents which Israel had communicated to the Council on 21 December 1955,<sup>7</sup> expressed the hope that the Council would include in its resolution on this question a clear injunction to Syria to avoid interfering with Israel's activity on Lake Tiberias and Israel territory surrounding the Lake; and also a clear statement forbidding Syria from exercising illegal control on Lake Tiberias or its shores.<sup>8</sup>

By letter<sup>9</sup> dated 29 December 1955, the representative of Israel transmitted to the Council certain observations by the Government of Israel on the report of the Chief of Staff on the Lake Tiberias incidents.

At the 710th meeting on 12 January 1956, the Council had before it a letter<sup>10</sup> dated 9 January 1956 from the representative of the USSR to the President of the Council requesting that, in accordance with rule 38 of the provisional rules of procedure, the Syrian draft resolution be put to a vote, with an amendment proposed by the USSR. The amendment would have deleted operative paragraphs 3, 4 and 5 of the Syrian draft resolution and replaced them by two operative paragraphs which would have: (1) called upon Israel to take all necessary measures to prevent such actions; and (2) warned Israel that any future recurrence of such actions would bring about a situation requiring the Council to consider the question of the application of Article 39 of the Charter.

At the same meeting, the Council also had before it a joint draft resolution<sup>11</sup> which had been circulated on 11 January 1956 by France, the United Kingdom and the United States.

<sup>1</sup> S/3505, O.R., 10th year, Suppl. for Oct.-Dec. 1955, p. 21.

<sup>2</sup> 707th meeting: preceding para. 1.

<sup>3</sup> 707th meeting: preceding para. 1.

<sup>4</sup> S/3516, O.R., 10th year, Suppl. for Oct.-Dec. 1955, pp. 24-33.

<sup>5</sup> S/3516/Add.1, O.R., 10th year, Suppl. for Oct.-Dec. 1955, pp. 33-36.

<sup>6</sup> S/3519, O.R., 10th year, Suppl. for Oct.-Dec. 1955, pp. 41-42.

<sup>7</sup> S/3519, O.R., 10th year, Suppl. for Oct.-Dec. 1955, pp. 36-41.

<sup>8</sup> 709th meeting: paras. 73-74.

<sup>9</sup> S/3524, O.R., 10th year, Suppl. for Oct.-Dec. 1955, pp. 42-47.

<sup>10</sup> S/3528, O.R., 11th year, Suppl. for Jan.-Mar. 1956, pp. 1-2.

<sup>11</sup> S/3530 and Corr.1, O.R., 11th year, Suppl. for Jan.-Mar. 1956, pp. 2-3.

At the 711th meeting on 12 January 1956, the representative of Iran introduced several amendments<sup>12</sup> to the joint draft resolution.

At the 713th meeting on 17 January 1956, the representative of the United Kingdom, on behalf of the three sponsoring Powers, introduced a revised text<sup>13</sup> of the joint draft resolution.

At the 714th meeting on 18 January 1956, the representative of Yugoslavia submitted a draft resolution<sup>14</sup> described as a compromise text which he hoped would render possible a unanimous decision.<sup>15</sup>

At the same meeting, the representative of Iran replaced his original amendments by new ones.<sup>16</sup> The representatives of France, the United Kingdom and the United States accepted some parts of the Iranian amendments to the joint draft resolution.<sup>17</sup>

At the 715th meeting on 19 January 1956, after a brief discussion, the Council decided, by 8 votes in favour and 2 against, with 1 abstention, to vote first on the three-Power draft resolution, as revised on 18 January 1956.<sup>18</sup>

At the same meeting, the revised joint draft resolution<sup>19</sup> was adopted unanimously.<sup>20</sup> The resolution<sup>21</sup> read as follows:

*"The Security Council,*

*"Recalling its resolutions of 15 July 1948, 11 August 1949, 18 May 1951, 24 November 1953, and 29 March 1955,*

*"Taking into consideration the statements of the representatives of Syria and Israel and the reports of the Chief of Staff of the United Nations Truce Supervision Organization on the Syrian complaint that an attack was committed by Israel regular army forces against Syrian regular army forces on Syrian territory on 11 December 1955,*

*"Noting the report of the Chief of Staff that this Israel action was a deliberate violation of the provisions of the General Armistice Agreement, including those relating to the demilitarized zone, which was crossed by the Israel forces which entered Syria,*

*"Noting also, without prejudice to the ultimate rights, claims and positions of the parties, that according to the reports of the Chief of Staff there has been interference by the Syrian authorities with Israel activities on Lake Tiberias, in contravention*

<sup>12</sup> S/3532, 711th meeting: paras. 48-55.

<sup>13</sup> S/3530/Rev.2, O.R., 11th year, Suppl. for Jan.-Mar. 1956, pp. 3-4.

<sup>14</sup> S/3536, O.R., 11th year, Suppl. for Jan.-Mar. 1956, pp. 4-5.

<sup>15</sup> 714th meeting: para. 29.

<sup>16</sup> S/3537, O.R., 11th year, Suppl. for Jan.-Mar. 1956, pp. 5-6.

<sup>17</sup> 714th meeting: paras. 70, 78-80, 85-87, 99, 102.

<sup>18</sup> 715th meeting: para. 130. For the procedural discussion, see chapter I, Case 23.

<sup>19</sup> S/3530/Rev.3, 715th meeting: paras. 108, 130, 141.

<sup>20</sup> 715th meeting: para. 141.

<sup>21</sup> S/3538, O.R., 11th year, Suppl. for Jan.-Mar. 1956, pp. 6-7.

of the terms of the General Armistice Agreement between Israel and Syria,

"1. *Holds* that this interference in no way justifies the Israel action;

"2. *Reminds* the Government of Israel that the Council has already condemned military action in breach of the general armistice agreements, whether or not undertaken by way of retaliation, and has called upon Israel to take effective measures to prevent such action;

"3. *Condemns* the attack of 11 December 1955 as a flagrant violation of the cease-fire provisions of its resolution of 15 July 1948, of the terms of the General Armistice Agreement between Israel and Syria, and of Israel's obligations under the Charter;

"4. *Expresses its grave concern* at the failure of the Government of Israel to comply with its obligations;

"5. *Calls upon* the Government of Israel to do so in the future, in default of which the Council will have to consider what further measures under the Charter are required to maintain or restore the peace;

"6. *Calls upon* the parties to comply with their obligations under article V of the General Armistice Agreement to respect the armistice demarcation line and the demilitarized zone;

"7. *Requests* the Chief of Staff to pursue his suggestions for improving the situation in the area of Lake Tiberias without prejudice to the rights, claims and positions of the parties and to report to the Council as appropriate on the success of his efforts;

"8. *Calls upon* the parties to arrange with the Chief of Staff for an immediate exchange of all military prisoners;

"9. *Calls upon* both parties to co-operate with the Chief of Staff in this and all other respects, to carry out the provisions of the General Armistice Agreement in good faith, and in particular to make full use of the Mixed Armistice Commission's machinery in the interpretation and application of its provisions."

*Decision of 4 April 1956 (722nd meeting):*

- (i) *Considering that the situation prevailing between the parties is such that its continuance is likely to endanger the maintenance of international peace and security;*
- (ii) *Requesting the Secretary-General to survey, as a matter of urgency, the various aspects of enforcement of and compliance with the four Armistice Agreements and the Council's resolution under reference, and to arrange for the adoption of measures which he considers would reduce the existing tensions along the Armistice Demarcation Lines*

By letter<sup>22</sup> dated 20 March 1956, the representative of the United States requested the President of the

<sup>22</sup> S/3561, O.R., 11th year, Suppl. for Jan.-Mar. 1956, p. 20.

Security Council to call an early meeting of the Council to consider the following agenda item:

“The Palestine question: status of compliance given to the general armistice agreements and the resolutions of the Security Council adopted during the past year.”

The representative of the United States expressed his Government's concern over recent developments in the Palestine area which might well endanger the maintenance of international peace and security. Information relating to the build-up of armed forces on either side of the armistice demarcation lines had led the United States to believe that the parties might not be fully complying with the provisions of their armistice agreements. Despite the earnest efforts of the Chief of Staff of the Truce Supervision Organization, the parties had not agreed to the proposals which he had put forward to them on his own initiative, or as a result of the Security Council's resolutions of 3 March and 8 September 1955, and 19 January 1956. These resolutions had been adopted unanimously by the Council, and it should be a matter of concern to each of its members to ascertain the extent of compliance with them.

At the 717th meeting on 26 March 1956, the Security Council included<sup>23</sup> the item in the agenda and considered it at its 717th-722nd meetings, between 26 March and 4 April 1956. The representatives of Egypt, Israel, Jordan, Lebanon and Syria were invited to participate in the discussion.

At the 717th meeting on 26 March 1956, the representative of the United States submitted a draft resolution.<sup>24</sup>

At the 718th and 719th meetings on 28 March and 3 April 1956, the representatives of Egypt\*, Lebanon\* and Syria\* raised questions and requested clarifications concerning paragraphs 2, 3 and 5 of the United States draft resolution.<sup>25</sup>

At the 719th meeting, the President, speaking as the representative of the United States, declared that his Government saw no way of preventing further deterioration of the situation except by providing for strict compliance with the General Armistice Agreements and the resolutions of the Security Council mentioned in the draft resolution. Paragraph 3 of the draft resolution envisaged that the Secretary-General should arrange, after discussion with the parties and the Chief of Staff, for measures which were entirely within the framework of the General Armistice Agreements and the relevant resolutions of the Council. Such measures would be applicable wherever the Secretary-General and the parties agreed that conditions warranted them. The demilitarized zones and defensive areas referred to in the draft resolution were those defined in the Armistice Agreements. The various aspects of compliance with

the Armistice Agreements, which the Secretary-General was requested in paragraph 2 of the draft resolution to survey, referred only to measures which would come within the natural purview of the armistice machinery and the United Nations Truce Supervision Organization. The arrangements referred to in paragraph 3(c) would be those agreed between the parties and the Secretary-General. In adopting the United States draft resolution, the Council would not of course relinquish its primary responsibility for the maintenance of international peace and security. The phrase “in his discretion” in paragraph 5 of the draft resolution meant that the Secretary-General would, if he considered it desirable, report sooner than one month from the date of the adoption of the draft resolution. He submitted a corrigendum<sup>26</sup> to capitalize the initial letters of the words “Defensive Areas” in operative paragraph 3(b).<sup>27</sup>

At the 720th meeting on 3 April 1956, the representative of the USSR, in introducing amendments<sup>28</sup> to the United States draft resolution, observed that all measures adopted in the Palestine area to relieve the existing tensions should be carried out only by agreement with the parties concerned and with due regard to their interests. The adoption of the first operative paragraph in the United States draft resolution would force the Council to decide prematurely that the situation prevailing between the parties was likely to endanger international peace and security. The Council should first hear the reports of the Secretary-General and the Chief of Staff before stating its conclusions with respect to the situation. The USSR amendments to the draft resolution were the following: (1) in the first paragraph of the preamble to add mention of the Security Council resolutions of 24 November 1953 and 29 March 1953; (2) inoperative paragraph 1 to replace the words “such that its continuance is likely to endanger the maintenance of international peace and security” by the word “unsatisfactory”; and (3) in operative paragraph 3 to replace the words “after discussion” by the words “after concordance” and, in sub-paragraph 3(b), to delete the words “and in the Defensive Areas”.<sup>29</sup>

The sponsor of the draft resolution declared that he could not accept the USSR amendments.<sup>30</sup>

At the 722nd meeting on 4 April 1956, the USSR amendments were rejected as follows: the amendment to paragraph 1 of the preamble by 1 vote in favour and 2 against, with 8 abstentions; the amendment to operative paragraph 1 by 2 votes in favour and 3 against, with 6 abstentions; the first part of the amendment to operative paragraph 3 by 1 vote in favour and 2 against, with 8 abstentions. The second part of the last amendment was not voted upon.<sup>31</sup>

<sup>23</sup> 717th meeting: para. 3.

<sup>24</sup> S/3562, *O.R.*, 11th year, *Suppl. for Jan.-Mar. 1956*, p. 21; 717th meeting: para. 12.

<sup>25</sup> 718th meeting: paras. 23-28, 39-40; 719th meeting: paras. 25-26.

<sup>26</sup> S/3562, *O.R.*, 11th year, *Suppl. for Jan.-Mar. 1956*, p. 21.

<sup>27</sup> 719th meeting: paras. 38-42.

<sup>28</sup> S/3574, 720th meeting: paras. 17-21.

<sup>29</sup> 720th meeting: paras. 17-20.

<sup>30</sup> 720th meeting: paras. 43-50.

<sup>31</sup> 722nd meeting: paras. 36, 44-46.

The United States draft resolution was adopted unanimously.<sup>32</sup> The resolution<sup>33</sup> read as follows:

*"The Security Council,*

*"Recalling its resolutions of 30 March 1955, 8 September 1955, and 19 January 1956,*

*"Recalling that in each of these resolutions the Chief of Staff of the United Nations Truce Supervision Organization and the parties to the general armistice agreements concerned were requested by the Council to undertake certain specific steps for the purpose of ensuring that the tensions along the armistice demarcation lines should be reduced,*

*"Noting with grave concern that despite the efforts of the Chief of Staff the proposed steps have not been carried out,*

*"1. Considers that the situation now prevailing between the parties concerning the enforcement of the armistice agreements and the compliance given to the above-mentioned resolutions of the Council is such that its continuance is likely to endanger the maintenance of international peace and security;*

*"2. Requests the Secretary-General to undertake, as a matter of urgent concern, a survey of the various aspects of enforcement of and compliance with the four general armistice agreements and the Council's resolutions under reference;*

*"3. Requests the Secretary-General to arrange with the parties for the adoption of any measures which, after discussion with the parties and with the Chief of Staff, he considers would reduce existing tensions along the armistice demarcation lines, including the following points:*

*"(a) Withdrawal of their forces from the armistice demarcation lines;*

*"(b) Full freedom of movement for observers along the armistice demarcation lines, in the demilitarized zones and in the defensive areas;*

*"(c) Establishment of local arrangements for the prevention of incidents and the prompt detection of any violations of the armistice agreements;*

*"4. Calls upon the parties to the general armistice agreements to co-operate with the Secretary-General in the implementation of this resolution;*

*"5. Requests the Secretary-General to report to the Council in his discretion but not later than one month from this date on the implementation given to this resolution in order to assist the Council in considering what further action may be required."*

*Decision of 4 June 1956 (728th meeting):*

*(i) Commending the Secretary-General and the parties on the progress already achieved;*

*(ii) Declaring that the parties should speedily carry out measures agreed upon with the Secretary-General, and should co-operate with him and the*

*Chief of Staff to effectuate further practical proposals, pursuant to the resolution of 4 April 1956, towards full implementation of that resolution and full compliance with armistice agreements; that full freedom of movement of United Nations observers must be respected;*

*(iii) Endorsing the Secretary-General's view that re-establishment of full compliance with armistice agreements represented a stage which had to be passed in order to make progress on main issues between the parties;*

*(iv) Requesting the Chief of Staff to continue to carry out his observation of the cease-fire, and the Secretary-General to continue his good offices with the parties with a view to full implementation of the resolution of 4 April 1956 and full compliance with the armistice agreements, and to report to the Council as appropriate*

On 9 May 1956, the Secretary-General submitted to the Security Council a report<sup>34</sup> on the results of his mission to the Middle East undertaken pursuant to the Council's resolution of 4 April 1956. The Council considered the report at its 723rd to 728th meetings, between 29 May and 4 June 1956. The representatives of Egypt, Israel, Jordan, Lebanon and Syria were invited to participate in the discussion.

At the 723rd meeting on 29 May 1956, the representative of the United Kingdom submitted a revision<sup>35</sup> of a draft resolution<sup>36</sup> which he had circulated on 25 May 1956. The discussions in the Council touched upon the following paragraphs of the draft resolution: preambular paragraph 3, noting those passages of the Secretary-General's report which referred to the assurances given to him by all the parties to the armistice agreements to unconditionally observe the cease-fire; preambular paragraph 6, expressing awareness of the need to create conditions in which a peaceful settlement of the dispute between the parties could be made on a mutually acceptable basis; operative paragraph 3, declaring that full freedom of movement of United Nations observers must be respected in all areas along the armistice demarcation lines, in the demilitarized zones and in the defensive areas as defined in the armistice agreements; operative paragraph 4, endorsing the Secretary-General's view that the re-establishment of full compliance with armistice agreements represented a stage which had to be passed in order to make progress possible on the main issues between the parties; and operative paragraph 7, requesting the Secretary-General to continue his good offices with the parties, and to report to the Security Council as appropriate.

At the 725th meeting on 31 May 1956, the representatives of Egypt\*, Jordan\*, Lebanon\* and Syria\*

<sup>34</sup> S/3596, O.R., 11th year, Suppl. for Apr.-June 1956, pp. 30-66.

<sup>35</sup> S/3600 Rev.1, O.R., 11th year, Suppl. for Apr.-June 1956, pp. 68-69; 723rd meeting: para. 36.

<sup>36</sup> S/3600, O.R., 11th year, Suppl. for Apr.-June 1956, pp. 66-67.

<sup>32</sup> 722nd meeting: para. 46.

<sup>33</sup> S/3575, O.R., 11th year, Suppl. for Apr.-June 1956, pp. 1-2.

maintained that, although their Governments had accepted the Secretary-General's original mandate as entirely within the scope of the General Armistice Agreements, the United Kingdom draft resolution would extend the mission of the Secretary-General beyond that scope. In this connexion, they raised questions concerning preambular paragraphs 3 and 6, and operative paragraphs 3, 4 and 7 of the draft resolution.<sup>37</sup>

At the 726th meeting on 1 June 1956, the representative of the United Kingdom stated that, while his delegation could not agree to amend or omit paragraph 6 of the preamble, it was prepared to amend operative paragraphs 3 and 7 in line with the suggestions which had been made. He submitted revisions of those paragraphs.<sup>38</sup>

The representative of Iran stated that the apprehensions which the representatives of the Arab States had expressed before the Council concerning certain paragraphs of the United Kingdom draft resolution were well founded. He considered that the objective of paragraph 6 of the preamble would exceed the scope of the draft resolution which the Council ought to adopt on the question, and that the inclusion of the paragraph might compromise previous United Nations resolutions on the question. He moved an amendment<sup>39</sup> to delete the paragraph.<sup>40</sup>

At the 728th meeting on 4 June 1956, the representative of the United Kingdom stated that, in the interest of unanimity, he would accept the amendment submitted by the representative of Iran. He made a further consequential revision in the seventh paragraph of the preamble.<sup>41</sup> At the same meeting, the United Kingdom draft resolution, as amended, was adopted unanimously.<sup>42</sup> The resolution<sup>43</sup> read as follows:

*"The Security Council,*

*"Recalling its resolutions of 4 April 1956 [S/3575] and 11 August 1949,*

*"Having received the report of the Secretary-General on his recent mission on behalf of the Security Council [S/3596],*

*"Noting those passages of the report (section III and annexes 1-4) which refer to the assurances given to the Secretary-General by all the parties to the general armistice agreements unconditionally to observe the cease-fire,*

*"Noting also that progress has been made towards the adoption of the specific measures set out in*

operative paragraph 3 of the Security Council's resolution of 4 April 1956,

*"Noting, however, that full compliance with the general armistice agreements and with the Council's resolutions of 30 March 1955, 8 September 1955 and 19 January 1956 is not yet effected, and that the measures called for in operative paragraph 3 of its resolution of 4 April 1956 have been neither completely agreed upon nor put fully into effect,*

*"Believing that further progress should now be made in consolidating the gains resulting from the Secretary-General's mission and towards full implementation by the parties of the armistice agreements,*

*"1. Commends the Secretary-General and the parties on the progress already achieved;*

*"2. Declares that the parties to the armistice agreements should speedily carry out the measures already agreed upon with the Secretary-General, and should co-operate with the Secretary-General and the Chief of Staff of the United Nations Truce Supervision Organization to put into effect their further practical proposals, pursuant to the resolution of 4 April 1956, with a view to full implementation of that resolution and full compliance with the armistice agreements;*

*"3. Declares that full freedom of movement of United Nations observers must be respected along the armistice demarcation lines, in the demilitarized zones and in the defensive areas, as defined in the armistice agreements, to enable them to fulfil their functions;*

*"4. Endorses the Secretary-General's view that the re-establishment of full compliance with the armistice agreements represents a stage which has to be passed in order to make progress possible on the main issues between the parties;*

*"5. Requests the Chief of Staff to continue to carry out his observation of the cease-fire pursuant to the Security Council's resolution of 11 August 1949 and to report to the Council whenever any action undertaken by one party to an armistice agreement constitutes a serious violation of that agreement or of the cease-fire, which in his opinion requires immediate consideration by the Council;*

*"6. Calls upon the parties to the armistice agreement to take the steps necessary to carry out this resolution, thereby increasing confidence and demonstrating their wish for peaceful conditions;*

*"7. Requests the Secretary-General to continue his good offices with the parties, with a view to full implementation of the Council's resolution of 4 April 1956 and full compliance with the armistice agreements, and to report to the Security Council as appropriate."*

*Decision of 25 October 1956 (745th meeting): Statement by the President adjourning the discussion*

By letter<sup>44</sup> dated 15 October 1956, the representative of Jordan informed the President of the Security Council

<sup>37</sup> 725th meeting: paras. 6-19, 89-98, 114-120, 123, 127, 129, 134-135, 166, 169.

<sup>38</sup> S/3600 Rev.2, O.R., 11th year, Suppl. for Apr.-June 1956, pp. 69-70. 726th meeting: paras. 6-19.

<sup>39</sup> S/3602, O.R., 11th year, Suppl. for Apr.-June 1956, p. 70.

<sup>40</sup> 726th meeting: paras. 21-25.

<sup>41</sup> 728th meeting: paras. 3-6.

<sup>42</sup> 728th meeting: para. 38.

<sup>43</sup> S/3605, O.R., 11th year, Suppl. for Apr.-June 1956, pp. 72-73.

<sup>44</sup> S/3678, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 53.

that on 11 October the Israel army had launched a major military attack against the Jordanian villages of Qalqiliya, Sufin, Hablah and Habi Ilyas. The Israel attacking force had used heavy arms and equipment including bombers. Twenty-five Jordanian soldiers and national guards had been killed and thirteen wounded. The police post of Qalqiliya had been demolished and the villages had been shelled. A similar attack had been launched on the night of 25-26 September against the Jordanian territory in the area of Husan where twenty-five Jordanians had been killed and six others wounded. These acts of aggression were a flagrant violation of the Armistice Agreement between Jordan and Israel and of the principles of the United Nations Charter, and constituted a threat to peace and security. He requested an early meeting of the Council to consider the situation.

By letter<sup>45</sup> dated 17 October 1956, the representative of Israel requested the President of the Security Council to include the following complaint against Jordan in the agenda of the Council for urgent consideration:

"Persistent violations by Jordan of the General Armistice Agreement and of the cease-fire pledge made to the Secretary-General on 26 April 1956."

At the 744th meeting on 19 October 1956, the Security Council had before it the provisional agenda which, under the general heading: "The Palestine question", listed as sub-items (a) and (b) the complaints submitted by Jordan and Israel, respectively.<sup>46</sup>

The agenda was adopted,<sup>47</sup> and the Security Council considered the question at its 744th and 745th meetings, held on 19 and 25 October 1956, respectively. The representatives of Israel and Jordan were invited to take part in the discussion.

At the 744th meeting on 19 October 1956, the representative of Jordan\*, after outlining the events complained of, requested the Council to apply the terms of Article 41 of the Charter against Israel in order to put an end to its aggression in Palestine.<sup>48</sup>

At the 745th meeting on 25 October 1956, the representative of Israel\* stated that Israel would observe all the provisions of the Armistice Agreement, if all its provisions were carried out by the other side. In particular, Israel would observe the cease-fire so long as it was faithfully observed by Jordan.<sup>49</sup>

The representative of Iran suggested that the Council should hear the views and suggestions of the Secretary-General who had been acting in previous months as mediator. He therefore proposed an adjournment for a few days.<sup>50</sup>

At the conclusion of the meeting, the President (France) stated:

<sup>45</sup> S/3682, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 60.

<sup>46</sup> 744th meeting: preceding para. 1.

<sup>47</sup> 744th meeting: para. 1.

<sup>48</sup> 744th meeting: para. 44.

<sup>49</sup> 745th meeting: paras. 74-75.

<sup>50</sup> 745th meeting: para. 102.

"I hope I am expressing the views of all my colleagues when I recall that the role of the Security Council, as defined by the Charter, is not only to determine responsibilities but also to maintain or restore peace. Therefore, one of its most important tasks in the present crisis is to try to prevent what it should be powerless to cure, to strive constructively towards a solution of the problem of maintaining peace along the armistice demarcation lines in Palestine.

"...

"It has been suggested that the Secretary-General should also be asked to turn his attention to this problem. The other day, the Iranian representative outlined a programme, which he mentioned again today and which seems to me to have the tacit support of the Council..."

After stating that he would leave the Council time for an exchange of views, the President, in the absence of objection, adjourned the meeting.<sup>51</sup>

The Council has held no further meeting on these complaints.

*Decision of 30 October 1956 (749th meeting):  
Rejection of the United States draft resolution*

In a letter<sup>52</sup> dated 29 October 1956 addressed to the President of the Security Council, the representative of the United States of America stated that his Government had received information to the effect that, in violation of the Armistice Agreement between Israel and Egypt, the armed forces of Israel had penetrated deeply into Egyptian territory in a military action begun on 29 October which was continuing in the Sinai area. This situation made imperative a meeting of the Council as soon as possible to consider the following item:

"The Palestine question: steps for the immediate cessation of the military action of Israel in Egypt."

At the 748th meeting on 30 October 1956, the item was included<sup>53</sup> in the agenda. It was discussed at the 748th, 749th and 750th meetings held on 30 October 1956. The representatives of Egypt and Israel were invited to take part in the discussions.

At the 748th meeting on 30 October 1956, the representative of the United States stated that it was imperative that the Council act in the promptest manner to determine that a breach of the peace had occurred, to order that the military action undertaken by Israel cease immediately and that the Israel armed forces should be immediately withdrawn behind the established armistice lines. He noted further that the Chief of Staff of the United Nations Truce Supervision Organization in Palestine had already issued a cease-fire order on his own authority which Israel had so far ignored and that military observers of the United Nations Truce Super-

<sup>51</sup> 745th meeting: paras. 107-111.

<sup>52</sup> S/3706, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 108.

<sup>53</sup> 748th meeting: para. 2.



vision Organization had been prevented by Israel authorities from performing their duties.<sup>54</sup>

The Secretary-General informed the Council of the main points of certain messages received from the Chief of Staff of the United Nations Truce Supervision Organization in Palestine.<sup>55</sup>

At the 749th meeting on 30 October 1956, the representative of the United Kingdom quoted from the statement made that day in the House of Commons by the British Prime Minister after consultation with the Prime Minister and the Foreign Minister of France. The Prime Minister had informed the House of Commons that the United Kingdom and French Governments had addressed urgent communications to the Governments of Egypt and Israel to stop all war-like action by land, sea and air forthwith and to withdraw their military forces a distance of ten miles from the Canal. Further, in order to separate the belligerents and to guarantee freedom of transit through the Canal by the ships of all nations, the Egyptian Government had been asked to agree that Anglo-French forces should move temporarily into key positions at Port Said, Ismailia and Suez. The Governments of Egypt and Israel had been asked to answer the communication within twelve hours. It had been made clear to them that if at the expiration of that time one or both had not undertaken to comply with these requirements, British and French forces would intervene in whatever strength might be necessary to obtain compliance with the above-mentioned requirements.<sup>56</sup>

At the same meeting, the representative of the United States submitted a draft resolution<sup>57</sup> according to which the Security Council would: (1) call upon Israel immediately to withdraw its armed forces behind the established armistice lines; (2) call upon all Members (a) to refrain from the use of force or threat of force in the area in any manner inconsistent with the purposes of the United Nations; (b) to assist the United Nations in ensuring the integrity of the armistice agreements; (c) to refrain from giving any military, economic or financial assistance to Israel so long as it had not complied with this resolution; and (3) request the Secretary-General to keep the Security Council informed on compliance with this resolution and to make whatever recommendations he deemed appropriate for the maintenance of international peace and security in the area by the implementation of this and prior resolutions.

The representative of Egypt\* drew the attention of the Council to the fact that he had submitted a request<sup>58</sup> dated 30 October 1956 for the inclusion on the agenda of a new item concerning the ultimatum addressed to Egypt.<sup>59</sup>

<sup>54</sup> 748th meeting: paras. 3, 8-10.

<sup>55</sup> 748th meeting: paras. 13-19.

<sup>56</sup> S/3711; 749th meeting: paras. 3-11.

<sup>57</sup> S/3710, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 110.

<sup>58</sup> S/3712, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 111-112.

<sup>59</sup> 749th meeting: paras. 112-113.

The representative of the United States, in order to meet the suggestion made by several members of the Council, inserted in the draft resolution a new operative paragraph 1 calling upon Israel and Egypt to cease fire immediately.<sup>60</sup>

At the same meeting, the draft resolution, as amended, was put to the vote and failed of adoption. There were 7 votes in favour and 2 against, with 2 abstentions, the negative votes being those of permanent members of the Council.<sup>61</sup>

*Decision of 30 October 1956 (750th meeting): Rejection of the USSR draft resolution*

At the 749th meeting on 30 October 1956, the representative of the USSR submitted a draft resolution<sup>62</sup> consisting of the preamble and paragraph 2 of the operative part of the revised United States draft resolution.<sup>63</sup>

Considering that a cease-fire and withdrawal of armed forces were inseparable, the representative of China submitted an amendment<sup>64</sup> to the USSR draft resolution calling upon Israel and Egypt to cease fire immediately. The Soviet representative accepted this amendment and an Iranian amendment<sup>65</sup> to include in the USSR text the last paragraph of the United States draft resolution.

At the 750th meeting on 30 October 1956, the representative of the USSR explained that paragraph 1 of the revised draft resolution<sup>66</sup> introduced by his delegation had been reworded as a matter of drafting to read: "Calls upon all the parties concerned immediately to cease fire".

At the same meeting, the representative of the USSR, in view of doubt expressed by four members of the Council concerning the new wording of operative paragraph 1 of the USSR draft resolution, reverted to the earlier version of that paragraph, which read: "Calls upon Israel and Egypt immediately to cease fire".

At the same meeting, the revised draft resolution, as amended, was put to the vote and not adopted. There were 7 votes in favour and 2 against, with 2 abstentions, the negative votes being those of permanent members of the Council.<sup>67</sup>

The Security Council then proceeded to the next item on its agenda, the letter dated 30 October 1956 from the representative of Egypt.<sup>68</sup>

<sup>60</sup> 749th meeting: para. 125.

<sup>61</sup> 749th meeting: para. 186.

<sup>62</sup> S/3713, 749th meeting: para. 188.

<sup>63</sup> S/3710, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 110.

<sup>64</sup> 749th meeting: paras. 191-192.

<sup>65</sup> 749th meeting: para. 199.

<sup>66</sup> S/3713/Rev.1, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 112, and 750th meeting: para. 15.

<sup>67</sup> 750th meeting: para. 23.

<sup>68</sup> S/3712, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 111-112; See in this chapter, p. 111, below.

*Decision of 28 May 1957 (782nd meeting): Noting statement by the Secretary-General that he would request, in the light of the Council's discussion, the Acting Chief of Staff of the United Nations Truce Supervision Organization in Palestine to present an additional report within a month*

By letter<sup>69</sup> dated 13 May 1957, the representative of Syria requested the President of the Security Council to convene a meeting for the purpose of examining the question of the construction of a bridge by Israel at the southern end of Lake Huleh in the demilitarized zone, which he stated to be a violation of the Israel-Syrian General Armistice Agreement, likely to give the Israel authorities a military advantage, and to constitute a threat to peace. He stated further that the Acting Chief of Staff of the United Nations Truce Supervision Organization in Palestine had been requested by the Syrian delegation to the Israel-Syria Mixed Armistice Commission to order the dismantling of the bridge on the grounds that its construction constituted a military activity and was likely to give the Israel authorities a military advantage. While the Syrian Government was able to subscribe to most of the statements in the report<sup>70</sup> of the Acting Chief of Staff, particularly with regard to the powers of the Mixed Armistice Commission and the functions of United Nations Military Observers, it could not concur in his conclusions which were not in accordance with facts and did not represent a strict application of the provisions of the Israel-Syrian General Armistice Agreement. In view of the fact that the retention of the bridge constituted a violation of the General Armistice Agreement and a threat to peace, the representative of Syria requested a meeting of the Security Council to consider the question.

At the 780th meeting on 23 May 1957, the Security Council had before it the following provisional agenda:

"The Palestine question

"Letter dated 13 May 1957 from the permanent representative of Syria to the United Nations, addressed to the President of the Security Council concerning the construction of a bridge in the demilitarized zone established by the General Armistice Agreement between Israel and Syria (S/3827)."

<sup>69</sup> S/3827, O.R., 12th year, Suppl. for Apr.-June 1957, pp. 19-20.

<sup>70</sup> In a report (S/3815) dated 20 April 1957, the Acting Chief of Staff of the United Nations Truce Supervision Organization in Palestine stated that although the bridge could be used for military purposes, he was nevertheless satisfied that it had been erected in connexion with the Huleh Reclamation project. Accordingly, he did not think that he would be justified in asking for its removal since such a request would have to be based on the assumption that a party would use the bridge for military purposes in violation of the armistice agreement, an assumption he was not entitled to consider. The Acting Chief of Staff also suggested that, in view of the difficulties which had occurred in the investigation, it would be advisable to re-affirm the special powers of the Chairman of the Mixed Armistice Commission and of the United Nations Military Observers in the demilitarized zone (O.R., Suppl. for Apr.-June 1957, pp. 4-7).

The agenda was adopted,<sup>71</sup> and the Security Council considered the question at its 780th, 781st and 782nd meetings on 23 and 28 May 1957. The representatives of Israel and Syria were invited to take part in the discussion.

At the 780th meeting on 23 May 1957, the representative of Syria\* requested the Council to condemn Israel for violations of the General Armistice Agreement and of the Security Council's resolution of 18 May 1951, to order the removal of the bridge, to affirm the special powers of the Chairman of the Mixed Armistice Commission and United Nations Military Observers and to reaffirm the right of the United Nations observers to freedom of movement and access in all the sectors of the demilitarized zone.<sup>72</sup>

The representative of Israel\* stated that in 1951 the Chief of Staff of the United Nations Truce Supervision Organization in Palestine had categorically declared that the invocation of military advantage was inadmissible under the armistice agreement since the relationship between Israel and Syria, after the signing of this agreement, was no longer based on purely military considerations. Moreover, the bridge in question had been constructed by Israel for the sole purpose of transporting earth-moving and dredging machinery for the completion of the canal system to the Jordan river. He stated further that Israel had consistently refused to entertain Syrian complaints regarding the demilitarized zone, and did not agree to investigations in the demilitarized zone which had their basis in the Syrian complaints. No difficulty, however, had been encountered in the case of requests for investigations conducted by or on behalf of the Chairman of the Mixed Armistice Commission in pursuance of his functions under article V of the General Armistice Agreement.<sup>73</sup>

At the 782nd meeting on 28 May 1957, the President (United States), no draft resolution having been introduced, in summing up the proceedings of the Council, made the following statement:

"All members of the Council appear to agree that the authority of the Chief of Staff of the Truce Supervision Organization should be respected and that the parties should co-operate with him. It was noted that in the instance before us he was delayed in his inspection of the bridge and in discharging other duties.

"Some members of the Council made it clear that they did not agree with the decision of the Acting Chief of Staff on the right of Israel to build the bridge. However, the majority have pointed out that the Chief of Staff is the proper authority for ensuring full implementation of the provisions of article V of the Armistice Agreement and have supported his decision. The parties have been asked to co-operate fully with the Acting Chief of Staff and to assist in any practical arrangements that he might feel are necessary in carrying out his responsibilities.

<sup>71</sup> 780th meeting: preceding para. 1.

<sup>72</sup> 780th meeting: para. 25.

<sup>73</sup> 780th meeting: paras. 128, 141-142.

"Note has also been taken of references in the report by the Acting Chief of Staff to other problems in the demilitarized zone, and the majority of the members have suggested that the Acting Chief of Staff submit an additional report at the proper time concerning conditions in the zone, including his freedom of access to the zone. Various inquiries have been made which might be covered in such a report. In this case, it is clear that the achievement of better conditions in the Near East is the Council's overriding objective. The United Nations and its representatives can continue to make an important contribution to this end. To do so, it needs the full co-operation of the Governments concerned."<sup>74</sup>

Following discussion of the question of time-limit for the supplementary report,<sup>75</sup> the Secretary-General stated that in the light of the discussion and without any formal decision, he would request the Chief of Staff to present a report on the situation in the demilitarized zone and would indicate to him the desirability of presenting it within a month.<sup>76</sup>

The President stated that there being no objections, the Council would proceed on this basis.<sup>77</sup>

On 27 June 1957, the Acting Chief of Staff submitted his additional report.<sup>78</sup>

The Council has not held any further meetings on this question.

*Decision of 22 January 1958 (810th meeting):*

- (i) *Directing the Chief of Staff of the United Nations Truce Supervision Organization in Palestine to regulate activities within the zone between the armistice demarcation lines around the Government House area in Jerusalem, subject to certain provisions and principles referred to in the resolution;*
- (ii) *Directing the Chief of Staff to conduct a survey of property records with a view to determining property ownership in the zone;*
- (iii) *Endorsing the recommendations of the Acting Chief of Staff to the effect that the parties should discuss through the Israel-Jordan Mixed Armistice Commission the suspension of civilian activities in the zone while provisions are made to regulate such activities, and that within a period of two months such discussions should be completed and their result advised to the Security Council;*
- (iv) *Calling upon the parties to co-operate with the Chief of Staff and in the Mixed Armistice Commission in carrying out the recommendations of the resolution and to observe the provisions of the General Armistice Agreement as regards pre-*

*vention of military activities in the zone, and requesting the Chief of Staff to report to the Council on the implementation of the resolution*

By letter<sup>79</sup> dated 4 September 1957, the permanent representative of Jordan informed the President of the Security Council that on 21 July 1957 a number of Israel civilians, under the protection of Israel security forces, had begun certain activities in violation of the provisions of the Israel-Jordan General Armistice Agreement, in a sector of the no-man's-land to the south of Jerusalem constituted by the Agreement and placed under the supervision and control of the United Nations. In spite of a protest and formal complaint lodged with the Chairman of the Mixed Armistice Commission and with the Chief of Staff of the United Nations Truce Supervision Organization respectively, the Israel civilians had refused to cease their activities. Jordan requested that the Security Council be convened in urgent meeting to consider the serious situation resulting from these violations of the General Armistice Agreement.

By letter<sup>80</sup> dated 5 September 1957, the acting permanent representative of Israel requested the President of the Security Council to place on the agenda the following complaint of Israel against Jordan:

"Violations by Jordan of the provisions of the General Armistice Agreement, and in particular article VIII thereof."

He stated that article VIII of the General Armistice Agreement, under which a Special Committee composed of representatives of both parties was to meet for the purpose of formulating arrangements designed to enlarge the scope of the agreement, had not been implemented because of an obdurate refusal by Jordan to carry out this clear obligation. The only one of the specific requirements mentioned in paragraph 2 of such article VIII which had been put into effect had been the resumption of the operation of the railroad to Jerusalem. All the others had remained unimplemented due to the refusal on the part of Jordan to agree to the functioning of the Special Committee during the previous eight years. As a result, rights which Israel considered to be of cardinal religious, educational and practical importance had been gravely prejudiced. Jordan was also in standing violation of certain other provisions of the General Armistice Agreement. The Government of Israel could not agree to a selective interpretation and implementation of that agreement by Jordan, and accordingly turned to the Security Council for relief from the intolerable situation which had been created.

At the 787th meeting on 6 September 1957, the Council had before it a provisional agenda which, under the general heading of "The Palestine question", listed as sub-items 2 (a) and 2 (b) the complaints submitted by Jordan and Israel, respectively.

<sup>74</sup> 782nd meeting: paras. 199-201.

<sup>75</sup> 782nd meeting: paras. 202-213.

<sup>76</sup> 782nd meeting: paras. 214-215.

<sup>77</sup> 782nd meeting: para. 216.

<sup>78</sup> S/3844, O.R., 12th year, Suppl. for Apr.-June 1957, pp. 2-9.

<sup>79</sup> S/3878, O.R., 12th year, Suppl. for July-Sept. 1957, pp. 33-34.

<sup>80</sup> S/3883, O.R., 12th year, Suppl. for July-Sept. 1957, pp. 35-36.

Following adoption of the agenda,<sup>81</sup> the President invited the representatives of Jordan and Israel to the Security Council table.

Following discussion of the question whether the sub-items should be dealt with successively or concurrently, the Council decided by 9 votes in favour and 1 against, with 1 abstention, to hear the preliminary statements of the two interested parties first, and to postpone decision on the procedural question.<sup>82</sup>

At the 788th meeting on 6 September 1957, after statements had been made by the representatives of Jordan \* and Israel \*, the representative of the Philippines, supported by the representatives of the United Kingdom and the United States, proposed that the Council should request from the Acting Chief of Staff of the Truce Supervision Organization in Palestine a report dealing with the complaint submitted by Jordan and a report on the complaint submitted by Israel. Pending receipt of these reports, both parties should refrain from taking any action between the armistice demarcation lines that would tend to increase tension. A suggestion made by the representative of Iraq that the activities of Israel in the area between the lines in the Jerusalem sector should be immediately stopped was not acted upon by the Council. After further suggestions made by the representatives of China and the United States, the President (Cuba) stated that the Council had decided, without objection, to request two reports from the Acting Chief of Staff in Palestine, one of which, dealing with the Jordan complaint, should be submitted within two weeks; and that copies of the record of the meetings should be transmitted to Israel and Jordan so that their respective Governments might fully understand the views expressed by the members of the Security Council.<sup>83</sup>

<sup>81</sup> 787th meeting: para. 27.

<sup>82</sup> 787th meeting: para. 39; for consideration of order of discussion of items on the agenda in relation to the scope of discussion, see chapter II, Case 15.

<sup>83</sup> 788th meeting: para. 132. For related discussion in connexion with rule 33 of the rules of procedure, see chapter I, Case 34.

In a report [S/3892, O.R., 12th year, Suppl. for July-Sept. 1957, pp. 38-43] dated 23 September 1957, the Acting Chief of Staff recommended to the Council that the parties should meet and discuss civilian activities in the zone through the Israel-Jordan Mixed Armistice Commission, and that the Government of Israel should suspend its afforestation project within the zone pending the outcome of such discussions, which should be completed within a period of two months. On 16 November 1957, the Acting Chief of Staff reported [S/3892/Add.2, O.R., 12th year, Suppl. for Oct.-Dec. 1957, p. 2] that the United Nations military observers had not observed any such work proceeding in the area in question since 8 November 1957. By letters [S/3907 and S/3914, O.R., 12th year, Suppl. for Oct.-Dec. 1957, pp. 6-8 and 17-18] dated 8 and 18 November 1957 to the Secretary-General, the representative of Jordan declared that further violations had been committed by Israel in the zone between the lines in Jerusalem. In a letter [S/3909, O.R., 12th year, Suppl. for Oct.-Dec. 1957, pp. 8-11] dated 11 November 1957, the representative of Jordan transmitted to the Secretary-General certain comments on the report of the Acting Chief of Staff. By letter [S/3910, O.R., 12th year, Suppl. for Oct.-Dec. 1957, pp. 10-11] dated 14 November 1957, the representative of Israel informed the Council that the Jordanian letter of 8 November contained serious misrepresentations designed to cast an unfavourable light on the legitimate activities of his Government.

At the 806th meeting on 22 November 1957, after the Council had adopted the agenda and the representatives of the parties concerned had been invited to the Council table, the President (Iraq) stated that discussion would proceed on sub-item 2 (a) of the agenda, dealing with the complaint submitted by Jordan. In response to a suggestion by the representative of Israel \* that in accordance with previous practice the Council should deal simultaneously with both sub-items on the agenda, the President ruled without objection that all speakers should address themselves to sub-item 2 (a) of the agenda.<sup>84</sup>

The Council continued consideration of the Jordanian complaint at the 809th and 810th meetings on 22 January 1958.

At the 809th meeting on 22 January 1958, the Council had before it a joint draft resolution<sup>85</sup> submitted by the representatives of the United Kingdom and the United States.

At the 10th meeting on 22 January 1958, after further statements by the parties concerned, including a statement by the representative of Israel \* that his Government, without prejudice to its legal rights and positions, had suspended since 8 November 1957 the activities which formed the substance of the Jordanian complaint,<sup>86</sup> the Council adopted the joint draft resolution unanimously.<sup>87</sup>

The resolution<sup>88</sup> read as follows:

*"The Security Council,*

*"Recalling its consideration on 6 September 1957, of the complaint of the Hashemite Kingdom of Jordan concerning activities conducted by Israel in the zone between the armistice demarcation lines in the area of Government House at Jerusalem,*

*"Having considered the report relating to the zone dated 23 September 1957, submitted in response to the Council's request by the Acting Chief of Staff of the United Nations Truce Supervision Organization,*

*"Noting that the status of the zone is affected by the provisions of the General Armistice Agreement and that neither Israel nor Jordan enjoys sovereignty over any part of the zone (the zone being beyond the respective demarcation lines),*

<sup>84</sup> 806th meeting: paras. 5-6. For the discussion of this point, see chapter II, Case 15.

In compliance with the decision taken by the Council at its 788th meeting, the Acting Chief of Staff submitted a report [S/3913, O.R., 12th year, Suppl. for Oct.-Dec. 1957, pp. 12-16] dated 31 October 1957, relating to the Israel complaint against Jordan which specifically referred to the provisions of article VIII, articles I and II, and article XII of the General Armistice Agreement. The report dealt primarily with the more specific aspects of the complaint and made no attempt to evaluate the broader political issues between the two countries. The Council has not held any meetings to consider the subject of this report.

<sup>85</sup> S/3940, O.R., 13th year, Suppl. for Jan.-Mar. 1958, pp. 4-5.

<sup>86</sup> 810th meeting: para. 28.

<sup>87</sup> 810th meeting: para. 30.

<sup>88</sup> S/3942, O.R., 13th year, Suppl. for Jan.-Mar. 1958, pp. 4-5.

"Motivated by a desire to reduce tensions and avoid the creation of new incidents,

"1. *Directs* the Chief of Staff of the United Nations Truce Supervision Organization to regulate activities within the zone subject to such arrangements as may be made pursuant to the provisions of the General Armistice Agreement and pursuant to paragraph 3 below, bearing in mind ownership of property there, it being understood that unless otherwise mutually agreed, Israelis should not be allowed to use Arab-owned properties and Arabs should not be allowed to use Israeli-owned properties;

"2. *Directs* the Chief of Staff to conduct a survey of property records with a view to determining property ownership in the zone;

"3. *Endorses* the recommendations of the Acting Chief of Staff to the end that:

"(a) The parties should discuss through the Mixed Armistice Commission civilian activities in the zone;

"(b) In order to create an atmosphere which would be more conducive to fruitful discussion, activities in the zone, such as those initiated by Israelis on 21 July 1957, should be suspended until such time as the survey will have been completed and provisions made for the regulation of activities in the zone;

"(c) Such discussions should be completed within a period of two months;

"(d) The Security Council should be advised of the result of the discussions;

"4. *Calls upon* the parties to the Israel-Jordan General Armistice Agreement to co-operate with the Chief of Staff and in the Mixed Armistice Commission in carrying out these recommendations pursuant to this resolution;

"5. *Calls upon* the parties to the Israel-Jordan General Armistice Agreement to observe article 3 of the Agreement and prevent all forces referred to in article 3 of the Agreement from passing over the armistice demarcation lines and to remove or destroy all their respective military facilities and installations in the zone;

"6. *Calls upon* the parties to use the machinery provided for in the General Armistice Agreement for the implementation of the Provisions of that Agreement;

"7. *Requests* the Chief of Staff to report on the implementation of this resolution."

*Decision of 15 December 1958 (844th meeting): Statement of the President expressing the conviction that the parties would prevent recurrences of incidents*

By letter<sup>90</sup> dated 4 December 1958, the permanent representative of Israel requested the President of the Security Council to convene an urgent meeting of the

Council to consider "a grave act of aggression" committed on 3 December 1958 by the armed forces of the United Arab Republic against Israel territory in the Huleh area in north-east Galilee. At noon of that day the Syrian army post at Darbashiya had opened fire on five Israeli shepherds and had killed one of them. The fire had continued until 1600 hours when the Syrian (UAR) forces had opened a heavy artillery barrage on all Israeli villages in the border area from Shamir to Gadot over a distance of 15 km. Three persons had been injured and severe damage had been caused to property. A cease-fire arranged by the United Nations Truce Supervision Organization for 1700 hours had not been honoured by the Syrian forces and their fire had ceased only some time later. This act of aggression was but the most serious in a number of attacks recently perpetrated by the Syrian forces against Israel, which had developed a character threatening peace and security and constituted a serious breach of the Charter and of the Israel-Syrian General Armistice Agreement. The Government of Israel accordingly turned to the Security Council to bring an immediate end to these aggressions.

On 8 December 1958, the Secretary-General circulated for the information of the members of the Security Council a report<sup>90</sup> by the Chief of Staff of the United Nations Truce Supervision Organization in Palestine concerning the incident of 3 November 1958.

At the 841st meeting on 8 December 1958, the Security Council included the letter from the permanent representative of Israel in the agenda,<sup>91</sup> and invited the representatives of Israel and the United Arab Republic to take part in the discussion. It continued consideration of the question at the 844th meeting on 15 December 1958.

At the 841st meeting, following an elaboration by the representative of Israel\* of the contents of his letter concerning the events and actions complained of, the representative of the United Arab Republic\* stated<sup>92</sup> that on 3 December at 1210 hours local time Israel shepherds had come up against the civilian Arab population and had exchanged shots with local police. After this an Israeli armed force had come to the rescue of the shepherds and had later withdrawn. The exchange of fire had ended at 1508 hours; 15 minutes later, the Israeli armed post had opened artillery fire on the Syrian villages of Ain-Maamoun and Darbashiya. In legitimate defence, and only after the Israeli artillery had opened fire, the Syrian artillery had replied. The representative of the United Arab Republic expressed surprise that the Security Council had been seized of this question before the Mixed Armistice Commission had had an opportunity to examine it.<sup>93</sup>

At the 844th meeting on 15 December 1958, the Secretary-General, after expressing deepest concern over the situation in the Huleh region, which was reflected

<sup>90</sup> S/4124. For consideration of the question of legitimate self-defence, see chapter XI, part IV, Case 3.

<sup>91</sup> 841st meeting (PV): p. 6.

<sup>92</sup> 841st meeting (PV): pp. 6-22.

<sup>93</sup> 841st meeting (PV): pp. 26-30.

in the question before the Council, drew the attention of the Council to his plan to visit the countries concerned. It was his intention to take up the situation for most serious consideration by the authorities of Israel and the United Arab Republic in the hope of soliciting their full support for the efforts to attack the underlying problems which were at the source of the tension. He further informed the Council of the request made by the Chief of Staff of the United Nations Truce Supervision Organization in Palestine to Israel and Syria authorities on 11 December 1958 that arrangements be made for visits by United Nations Military Observers to the areas within the north-eastern region. Positive replies had been received and inspections had begun that very morning.<sup>94</sup>

Before the adjournment of the meeting, the President (Sweden) made the following statement:<sup>95</sup>

"I am certain the Council agrees that incidents of the nature we have been discussing are regrettable, but also that they can be effectively dealt with by the Chief of Staff and his organization.

"We fully recognize the gravity of the action about which Israel had complained. The Council will, I feel confident, agree that the authority of the United Nations should be respected and that the parties should continue their co-operation with the Chief of Staff of the United Nations Truce Supervision Organization in the spirit of the Armistice Agreement.

"We have listened to the statement by the Secretary-General and taken note of his intention to visit the countries concerned, and there to take up the present situation for most serious consideration by the authorities of Israel and the United Arab Republic, in the hope of breaking the present trend and soliciting their full support for our efforts to attack the underlying problems which are at the source of the tension.

"I venture to express the hope that the incidents of which we have now heard are of an isolated nature. I am convinced that the parties will do everything in their power to prevent recurrences, which would tend to create new tensions in the Middle East."

**SITUATION CREATED BY THE UNILATERAL ACTION OF THE EGYPTIAN GOVERNMENT IN BRINGING TO AN END THE SYSTEM OF INTERNATIONAL OPERATION OF THE SUEZ CANAL, WHICH WAS CONFIRMED AND COMPLETED BY THE SUEZ CANAL CONVENTION OF 1888**

**INITIAL PROCEEDINGS**

By a joint letter<sup>96</sup> dated 23 September 1956, the representatives of France and the United Kingdom requested the President of the Security Council to call a meeting of the Council on 26 September 1956 in order to consider the following question:

<sup>94</sup> 844th meeting (PV): pp. 2-6.

<sup>95</sup> 844th meeting (PV): p. 67.

<sup>96</sup> S/3654, O.R., 11th year, Suppl. for July-Sept. 1956, p. 47.

"Situation created by the unilateral action of the Egyptian Government in bringing to an end the system of international operation of the Suez Canal, which was confirmed and completed by the Suez Canal Convention of 1888."

They stated that the general nature of this situation had been set out in their letter<sup>97</sup> of 12 September 1956 to the President of the Security Council.

By letter<sup>98</sup> dated 24 September 1956, the representative of Egypt, in view of further developments since his letter<sup>99</sup> dated 17 September 1956 to the President of the Security Council, requested that the Security Council be urgently convened to consider the following question:

"Actions against Egypt by some powers, particularly France and the United Kingdom, which constitute a danger to international peace and security and are serious violations of the Charter of the United Nations."

The items submitted by France and the United Kingdom, and by Egypt appeared as items 2 and 3, respectively, of the provisional agenda of the 734th meeting on 26 September 1956. The representative of Egypt was invited to participate in the discussion. At the 742nd meeting on 13 October 1956, the representatives of Israel, Jordan, Lebanon, Libya, Saudi Arabia, Syria and Yemen were invited to submit written statements.<sup>100</sup>

<sup>97</sup> S/3645, O.R., 11th year, Suppl. for July-Sept. 1956, pp. 28-29. In this letter, the representatives of France and the United Kingdom stated that the situation created by the action of the Government of Egypt in attempting unilaterally to bring to an end the system of international operation of the Suez Canal, confirmed and completed by the Suez Canal Convention, had created a situation which might endanger the free and open passage of shipping through the Canal. A Conference had therefore been called in London on 16 August 1956, which had been attended by twenty-two States. Eighteen of them, representing over 90 per cent of the users interested in the Canal, had put forward proposals to the Government of Egypt relating to the future operation of the Canal. The Government of Egypt had refused, however, to negotiate on the basis of these proposals, which in the opinion of the French and United Kingdom Governments, offered means for a just and equitable solution. The two Governments considered that this refusal was an aggravation of the situation, which if allowed to continue, would constitute a manifest danger to peace and security.

<sup>98</sup> S/3656, O.R., 11th year, Suppl. for July-Sept. 1956, p. 48.

<sup>99</sup> S/3650, O.R., 11th year, Suppl. for July-Sept. 1956, pp. 38-41. In this letter, the representative of Egypt declared that the act of nationalization of the Suez Canal Company had been taken by Egypt in the full exercise of its sovereign rights and without challenge of infringement of the right of any nation. It had been met by declarations by France of mobilization and movement of armed forces, by hostile economic measures and by incitement to the employees and pilots working in the Canal to abandon their work in an attempt to sabotage the operation of the Canal. Several offers by the Government of Egypt to enter into negotiations at a conference for reviewing the Convention of 1888 had been made to no avail, and instead a "Users' Association", incompatible with the dignity and sovereignty of Egypt, had been created by eighteen Governments. Being determined to spare no effort to reach a peaceful solution of the Suez Canal question on the basis of the recognition of the legitimate and sovereign rights of Egypt and in accordance with the Charter of the United Nations, Egypt considered it indispensable that an end be put to acts such as those complained of, which were a serious danger to the international peace and security and were violations of the Charter.

<sup>100</sup> See chapter III, Case 23.

After the adoption of the agenda,<sup>101</sup> the Council rejected a Yugoslav proposal<sup>102</sup> for simultaneous consideration of the two items. The President (Cuba) stated that the two items would be discussed separately in the order in which they had been included in the agenda.<sup>103</sup>

The Security Council considered the item submitted by France and the United Kingdom at its 735th to 743rd meetings held between 5 and 13 October 1956,<sup>104</sup> at its 776th and 777th meetings on 26 April 1957, and at its 778th and 779th meetings on 20 and 21 May 1957.

At the 735th meeting on 5 October 1956, the representatives of France and the United Kingdom submitted a joint draft resolution<sup>105</sup> under which the Security Council was to: (1) re-affirm the principle of the freedom of navigation of the Suez Canal in accordance with the Suez Canal Convention of 1888; (2) consider that the rights which all users of the Suez Canal enjoyed under the system upon which the Suez Canal Convention of 1888 was based should be safeguarded, and the necessary guarantees restored; (3) endorse the proposals<sup>106</sup> of the eighteen States as suitably designed to bring about an adjustment and solution of the Suez Canal question by peaceful means and in conformity with justice; (4) recommend that the Government of Egypt should co-operate by negotiation in working out, on the basis of these proposals, a system of operation to be applied to the Suez Canal; (5) recommend that the Government of Egypt should, pending the outcome of such negotiations, co-operate with the Suez Canal Users' Association.

At the same meeting, the representative of the United Kingdom suggested that, after those who wished to state their views in public session had had a chance to do so, the Council should meet in private session so that the possibilities for a peaceful solution could be explored as rapidly as possible.<sup>107</sup> The 739th to 741st meetings on 9, 11 and 12 October were held in private.<sup>108</sup>

*Decision of 13 October 1956 (743rd meeting): Adoption of the requirements that any settlement of the Suez question should meet*

At the 742nd meeting on 13 October 1956, the representatives of France and the United Kingdom submitted a joint draft resolution,<sup>109</sup> under which the Security Council was to: (1) agree that any settlement of the Suez question should meet the following require-

ments: (i) there should be free and open transit through the Canal without discrimination, overt or covert; (ii) the sovereignty of Egypt should be respected; (iii) the operation of the Canal should be insulated from the politics of any country; (iv) the manner of fixing tolls and charges should be decided by agreement between Egypt and the users; (v) a fair proportion of the dues should be allotted to development; and (vi) in case of disputes, unresolved affairs between the Suez Canal Company and the Government of Egypt should be settled by arbitration, with suitable terms of reference and suitable provisions for the payment of sums found to be due; (2) consider that the proposals of the eighteen Powers correspond to the six requirements and were suitably designed to bring about a settlement of the Suez Canal question by peaceful means, in conformity with justice; (3) note that the Government of Egypt, while declaring its readiness in the explanatory conversations to accept the principles of organized collaboration between an Egyptian authority and the users, had not yet formalized sufficiently precise proposals to meet the six requirements; (4) invite the Governments of Egypt, France and the United Kingdom to continue their interchanges and in this connexion invite the Government of Egypt to make known promptly its proposals for a system meeting the six requirements and providing guarantees to the users not less effective than those sought by the proposals of the eighteen Powers; and (5) consider that pending the conclusion of an agreement for the definitive settlement of the regime of the Suez Canal on the basis of the six requirements, the Suez Canal Users' Association, which had been qualified to receive the dues payable by ships belonging to its members, and the competent Egyptian authorities, should co-operate to ensure the satisfactory operation of the Canal and free and open transit through the Canal in accordance with the 1888 Convention.

With regard to the earlier draft resolution<sup>110</sup> the representative of the United Kingdom stated that its sponsors did not intend to ask the Council to consider it at that time. They did not withdraw it and did not ask for a vote upon it.<sup>111</sup>

The representative of Iran submitted an amendment<sup>112</sup> to the second operative paragraph of the joint draft resolution.

At the 743rd meeting on 13 October 1956, the representative of Yugoslavia stated that the second part of the joint draft resolution submitted by France and the United Kingdom was based on the proposals of the eighteen Powers which had already shown themselves to offer no basis for agreement, and submitted a draft resolution<sup>113</sup> according to which the Security Council would: (1) consider that a solution to be found must meet certain requirements [identical with the six requirements set forth in the French-United Kingdom joint draft

<sup>101</sup> For the adoption of the agenda, see chapter II, Case 6.

<sup>102</sup> For the consideration of the Yugoslav proposal, see chapter II, Case 14.

<sup>103</sup> 734th meeting: para. 134.

<sup>104</sup> 739th-741st meetings: official communiqués circulated in place of the verbatim records.

<sup>105</sup> S/3666, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 5.

<sup>106</sup> S/3665, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 2.

<sup>107</sup> 735th meeting: para. 95.

<sup>108</sup> S/3671, O.R., 11th year, Suppl. for Oct.-Dec., 1956, pp. 5-6.

<sup>109</sup> See in chapter I, part IV, the note under rule 23 and in the same chapter, Case 12.

<sup>110</sup> S/3666, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 5-6.

<sup>111</sup> 742nd meeting: para. 20.

<sup>112</sup> 742nd meeting: para. 60.

<sup>113</sup> S/3672, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 20.



resolution]; (2) recommend that the negotiations be continued; (3) request the Secretary-General to offer, if necessary, his assistance in subsequent stages of negotiations; (4) call on all the parties concerned to abstain from taking any measures which might impair these negotiations.<sup>114</sup>

The President (France) stated that the amendment<sup>115</sup> submitted by the representative of Iran to the French-United Kingdom joint draft resolution had been accepted by the sponsors of the latter and would be incorporated in the joint draft resolution, which would be submitted to the vote in two parts. The first part would include the statement of the six principles, contained in operative paragraph 1, and the second part would begin with operative paragraph 2, as amended by Iran, and continue to the end of the joint draft resolution.<sup>116</sup>

The first part of the joint draft resolution submitted by France and the United Kingdom, up to the end of the first paragraph, was adopted unanimously.<sup>117</sup>

The second part of the joint draft resolution, as amended, was not adopted. There were 9 votes in favour and 2 against (one of the negative votes being that of a permanent member).<sup>118</sup>

The draft resolution was not put to a vote as a whole. The President declared without objection that by the Council's tradition the whole was now identical with the first part. Since the first part had been unanimously adopted, it would be considered that the whole had also been adopted unanimously.<sup>119</sup>

The Yugoslav delegation did not press for a vote on its own draft resolution.<sup>120</sup>

The Council did not take up item 3 on its agenda, consideration of which was not pressed by the representative of Egypt.<sup>121</sup>

The resolution,<sup>122</sup> as adopted, read:

<sup>114</sup> 743rd meeting: paras. 25-30.

<sup>115</sup> 742nd meeting: para. 60.

<sup>116</sup> 743rd meeting: paras. 103-104.

<sup>117</sup> 743rd meeting: para. 106.

<sup>118</sup> 743rd meeting: para. 106.

<sup>119</sup> 743rd meeting: para. 107.

<sup>120</sup> 743rd meeting: para. 112.

<sup>121</sup> See the letter [S/3679, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 53-55] dated 15 October 1956 to the President of the Security Council from the Minister for Foreign Affairs of Egypt. For the exchange of correspondence between the Secretary-General and the Minister for Foreign Affairs of Egypt following adoption of the resolutions, see S/3728, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 120-124. The document contains: (a) Note; (b) Letter dated 24 October 1956 from the Secretary-General to the Minister for Foreign Affairs of Egypt; (c) Letter dated 2 November 1956 from the representative of Egypt transmitting a communication from the Minister for Foreign Affairs of Egypt to the Secretary-General. For proceedings of the Security Council affecting the Suez Canal between the 743rd and 779th meetings, see in this chapter, under Palestine question, *decision of 30 October 1956 (749th meeting)*, and under Letter dated 30 October 1956 from the representative of Egypt addressed to the President of the Security Council, *decision of 31 October 1956 (751st meeting)*.

<sup>122</sup> S/3675, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 47-48.

"The Security Council,

"Noting the declarations made before it and the accounts of the development of the exploratory conversations on the Suez question given by the Secretary-General of the United Nations and the Foreign Ministers of Egypt, France and the United Kingdom,

"Agrees that any settlement of the Suez question should meet the following requirements:

"1. There should be free and open transit through the Canal without discrimination, overt or covert—this covers both political and technical aspects;

"2. The sovereignty of Egypt should be respected;

"3. The operation of the Canal should be insulated from the politics of any country;

"4. The manner of fixing tolls and charges should be decided by agreement between Egypt and the users;

"5. A fair proportion of the dues should be allotted to development;

"6. In case of disputes, unresolved affairs between the Universal Suez Maritime Canal Company and the Egyptian Government should be settled by arbitration with suitable terms of reference and suitable provisions for the payment of sums found to be due."

*Decision of 21 May 1957 (779th meeting): Statement by the President summarizing the debate and stating that the Council would remain seized of the question*

By letter<sup>123</sup> dated 24 April 1957, the representative of the United States requested the President of the Security Council to convene a meeting of the Council for the purpose of resuming the discussion of the item relating to the Suez Canal and taking note of the situation regarding passage through the Suez Canal.

At the 776th meeting on 26 April 1957, the Security Council included the letter submitted by the representative of the United States in its agenda.<sup>124</sup> Following adoption of the agenda, the representative of Egypt was invited to take part in the discussion.

The representative of the United States, explaining why his Government had requested a meeting of the Council, recalled (1) the unanimous adoption of the resolution enumerating six basic requirements to be met in any Suez Canal settlement and the agreement that the Council should remain seized of the matter, and (2) the circulation to members of the Council and the registration with the United Nations of the Declaration<sup>125</sup> of the Egyptian Government on the Suez Canal. In the

<sup>123</sup> S/3817/Rev.1, O.R., 12th year, Suppl. for Apr.-June 1957, p. 8.

<sup>124</sup> 776th meeting: para. 3.

<sup>125</sup> By letter [S/3818, O.R., 12th year, Suppl. for Apr.-June 1957, pp. 8-12] dated 24 April 1957, addressed to the Secretary-General, the Minister for Foreign Affairs of Egypt announced that the Suez Canal was open for normal traffic. With the letter, a "Declaration on the Suez Canal and arrangements for its operation" was enclosed for registration by the Secretariat as an international instrument.



view of the United States, the Declaration did not meet fully the six requirements of the Security Council; the fundamental difficulty was the absence of provision for "organized co-operation". Perhaps no final judgement could be made regarding the regime proposed by Egypt until it had been tried out in practice. The Council should remain seized of the matter while the system proposed by Egypt was given a trial.

Discussion of the adequacy and legal standing of the Declaration continued at the same meeting and at the 777th meeting on 26 April 1957. There followed expressions of the view on the one hand that examination of the item by the Council would be completed only when an international instrument had been framed following further negotiations and, on the other hand, that with publication of the Egyptian Government's declaration, the Suez Canal problem was in fact settled.

At the conclusion of the meeting, the President (United Kingdom) declared that, in accordance with the usual practice, arrangements for a further discussion of the question would be made by the President of the Council in consultation with those concerned.<sup>128</sup>

By letter<sup>127</sup> dated 15 May 1957, the representative of France requested the President of the Security Council to call a meeting of the Council to resume consideration of the item relating to the Suez Canal. Enclosed with the letter was a communiqué of the Council of Ministers of France dated 15 May 1957 in which it was stated that the French Government had noted with regret the decision taken by those users of the Suez Canal who had accepted the direct payment of tolls to Egypt, without the latter having furnished them the minimum guarantees concerning free transit through the Canal and the equitable distribution of the monies collected. The French Government could not regard as acceptable, and still less as final, a solution of the Canal problem which was in flagrant contradiction with the six requirements unanimously approved by the Security Council in October 1956.

At the 778th meeting on 20 May 1957, the Security Council decided by 10 votes in favour and none against, with 1 abstention, to include the letter of the representative of France in the agenda.<sup>129</sup>

At the 779th meeting on 21 May 1957, the President (United States), no draft resolution having been introduced in the Council, in summarizing the debate, stated:

"The Council has now completed a further discussion of the Suez Canal question. It is plain that a clear majority of the members of the Council are acutely aware of the responsibilities of the United Nations with regard to this matter. This is shown by the fact that the Council on 13 October 1956 adopted a resolution enumerating six requirements which should be met in any Suez Canal settlement and adopted them unanimously. There is the further

fact that the Council has discussed this problem several times, and that it has remained seized of the issue is further evidence of the Council's interest and concern.

"It is of course clear that certain views have also been expressed to the effect that the Egyptian Declaration and the present operation of the Suez Canal do adequately implement the six requirements of the Council.

"But the majority of the members are of the opinion that these requirements have not yet been met, that there are uncertainties that require clarification, and that, even as expressed by the Egyptian representative yesterday, the Egyptian position remains to be completed.

"...

"These comments reflect continuing doubts on the part of a number of members regarding the Suez Canal system now put into effect by the Egyptian Government, and about which clarification by Egypt is desired.

"The Egyptian Government will presumably wish as soon as possible to examine these points carefully and to consider the concrete steps it can take to remove the doubts which have arisen. Member Governments will undoubtedly be guided in their diplomatic actions and users will be guided in their practical actions by the views that have been expressed here today and by the Egyptian response to the questions which have been raised here. In the meantime the Council will remain seized of the question and will be in a position to meet again when the representative of Egypt has something further to communicate or when other developments make it desirable."<sup>129</sup>

The representative of the USSR observed that it was clear that the questions to which the President had referred in his summing up reflected only the opinions of individual delegations and not the collective opinion of the whole Security Council as an organ of the United Nations.<sup>130</sup> The President replied that his summary had been accurate and spoke for itself.<sup>131</sup>

The question remains on the list of matters of which the Security Council is seized.<sup>132</sup>

<sup>128</sup> 779th meeting: paras. 116-118, 126-127.

<sup>130</sup> 779th meeting: para. 131.

<sup>131</sup> 779th meeting: para. 132.

<sup>132</sup> By letter [S/3839/Rev.1, O.R., 12th year, Suppl. for Apr.-June 1957, p. 24] dated 13 June 1957, addressed to the Secretary-General, the representative of France transmitted a communication from his Government in which it was stated that, having regard to the fact that the conclusions drawn by the President of the Security Council indicated the provisional nature of the Egyptian memorandum of 24 April and the need for complete implementation of the six requirements adopted by the Council on 13 October 1956, the French Government was making available to French shipping companies and ship owners the means necessary to enable their ships to use the Canal. That action, it was stated, in no way affected the conclusions referred to and could neither prejudice the rights of third parties nor modify in any way the point of view expressed by the

<sup>128</sup> 777th meeting: para. 102.

<sup>127</sup> S/3829, O.R., 12th year, Suppl. for Apr.-June 1957, pp. 20-21.

<sup>129</sup> 778th meeting: para. 14.

## THE SITUATION IN HUNGARY

## INITIAL PROCEEDINGS

By letter<sup>133</sup> dated 27 October 1956, addressed to the President of the Security Council, the permanent representatives of France, the United Kingdom and the United States referred to:

"... the situation created by the action of foreign military forces in Hungary in violently repressing the rights of the Hungarian people which are secured by the Treaty of Peace to which the Governments of Hungary and the Allied and Associated Powers are parties."

Pursuant to the provisions of Article 34 of the Charter, they requested the inclusion of an item in the agenda of the Security Council entitled: "The situation in Hungary", and an urgent meeting of the Council to consider it.

At the 746th meeting on 28 October 1956, during the discussion concerning the adoption of the provisional agenda, the representative of the USSR, referring to the provisions of Article 2 (7) of the Charter, objected to the question being placed on the Council's agenda. He also maintained that any situations arising inside a country and not affecting its relations with other States, as in the present instance, did not fall under Article 34.<sup>134</sup>

The provisional agenda was adopted by 9 votes in favour and 1 against, with 1 abstention.<sup>135</sup>

The Security Council considered the question at its 746th and 752nd-754th meetings, between 28 October and 4 November 1956. The representative of Hungary was invited to take part in the discussion.<sup>136</sup>

By letter<sup>137</sup> dated 2 November 1956, the representatives of France, the United Kingdom and the United States requested the President of the Security Council to call an urgent meeting of the Council in view of the critical situation in Hungary, and noted that the Council was already seized of this matter under the item: "The situation in Hungary".

At the 752nd meeting on 2 November 1956, the representative of the United States referred to the cable-

representative of France at the meetings on 20 and 21 May 1957. By letter [S/3818/Add.1, O.R., 12th year, Suppl. for July-Sept. 1957, pp. 1-2] dated 18 July 1957, the Minister for Foreign Affairs of Egypt transmitted to the Secretary-General a declaration of the Government of Egypt accepting as compulsory *ipso facto* the jurisdiction of the International Court of Justice in all disputes that might arise under paragraph 9 (B) of the Declaration dated 24 April 1957 on "Suez Canal and the arrangements for its operation", with effect as from that date.

<sup>133</sup> S/3690, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 100.

<sup>134</sup> 746th meeting: paras. 12-13, 24. For discussion in relation to Article 2 (4), see chapter XII, part I, Case 1; for discussion in relation to Article 2 (7), see chapter XII, part I, Case 2; in relation to Article 34, see chapter X, part II, Case 6.

<sup>135</sup> For consideration of the inclusion of the question in the agenda, see chapter II, part III, Case 7.

<sup>136</sup> 746th meeting: para. 35; see chapter III, part I, Case 13; for the subsequent discussion concerning the applicability of rules 14, 15 and 17 of the rules of procedure, see chapter I, part II, Case 4.

<sup>137</sup> S/3723, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 117.

gram<sup>138</sup> dated 1 November 1956 from the President of the Council of Ministers of the Hungarian People's Republic addressed to the Secretary-General requesting that the question of Hungary's neutrality and the defence of that neutrality by the four Great Powers be put on the agenda of the forthcoming General Assembly, and stated that the Council's next step should be to "ascertain the facts".<sup>139</sup>

The representative of Cuba<sup>140</sup> supported by the representative of Peru<sup>141</sup> expressed the view that a draft resolution must be submitted as soon as possible and must embody at least three principles: (a) an immediate appeal to the Government of the USSR to withdraw its troops from Hungarian territory; (b) an express recognition of the right of the Hungarian people to determine by free election the system of government under which it chose to live; and (c) the establishment of a commission of the Security Council to supervise and ensure the carrying out of measures proposed by the Security Council which would ensure the political independence of Hungary.

The representative of China stated that he would like to see the following four points incorporated in the resolution which the Security Council should adopt: (a) expression of sympathy by the Council to the Hungarian people in this struggle for freedom; (b) a clear statement by the Council that it opposed the military intervention of the Soviet Union; (c) establishment of a United Nations Commission sent to observe the events on the spot and to report to the United Nations; and (d) issuance of an appeal to "all the free peoples of the world" to give to the Hungarian people such help as they could.<sup>142</sup>

At the same meeting, the text of a note<sup>143</sup> dated 2 November 1956 from the permanent mission of the Hungarian People's Republic addressed to the Secretary-General, transmitting a letter of the same date from the President of the Council of Ministers and Acting Foreign Minister of the Hungarian People's Republic, was circulated. This asked the Security Council to instruct the Governments of Hungary and the USSR to start negotiations immediately looking to the withdrawal of Soviet troops from Hungary.

On 3 November 1956, the Chairman and Minister for Foreign Affairs of the Council of Ministers of the Hungarian People's Republic, in a cablegram<sup>144</sup> addressed to the Secretary-General, stated that his Government confirmed that the communications sent to the Secretary-General expressed the official standpoint of the "whole Hungarian Government".

<sup>138</sup> A/3251, GA (ES II), Annexes a.i. 5, p. 1.

<sup>139</sup> 752nd meeting: paras. 59, 61.

<sup>140</sup> 752nd meeting: para. 68.

<sup>141</sup> 752nd meeting: para. 96.

<sup>142</sup> 752nd meeting: para. 131.

<sup>143</sup> S/3726, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 119-120.

<sup>144</sup> S/3731, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 126-127.

*Decision of 4 November 1956 (754th meeting):*  
*Rejecting the revised draft resolution submitted by*  
*the representative of the United States*

At the 753rd meeting on 3 November 1956, the representative of the United States submitted a draft resolution,<sup>145</sup> according to which the Security Council would: (1) call upon the Government of the USSR to desist forthwith from any form of intervention, particularly armed intervention, in the internal affairs of Hungary; (2) express the earnest hope that the USSR would withdraw all Soviet forces from Hungary without delay; (3) affirm the right of the Hungarian people to a government responsive to its national aspirations and dedicated to its independence and well-being; (4) request the Secretary-General in consultation with the heads of appropriate specialized agencies to explore on an urgent basis the need of the Hungarian people for food, medicine and other similar supplies, and to report to the Security Council as soon as possible; and (5) request all Members of the United Nations and invite national and international humanitarian organizations to co-operate in making available such supplies as might be required by the Hungarian people.

The representative of Peru suggested the following amendments<sup>146</sup> to the United States draft resolution: in paragraph 2 replace the words "expresses the earnest hope" by the word "understands"; in paragraph 3 add, following the words "Hungarian people", the words "to secure, through free elections."

After a discussion, the Security Council decided that the next meeting would be held on Monday, 5 November.<sup>147</sup>

At the urgently summoned 754th meeting held on Sunday, 4 November 1956, at 3.00 a.m., the representative of the United States submitted a revision of his draft resolution,<sup>148</sup> operative paragraph 2 of which would have called upon the USSR to cease the introduction of additional armed forces into Hungary and to withdraw all of its forces without delay from Hungarian territory.

The representative of China submitted an amendment<sup>149</sup> to operative paragraph 1 of the revised draft resolution to call upon the Government of the USSR to desist forthwith from making war on the Government and people of Hungary, and from any form of intervention in the internal affairs of Hungary.

At the request of the representative of the United States,<sup>150</sup> the representative of China agreed not to press

for a vote on his amendment to the revised draft resolution.<sup>151</sup>

At the 754th meeting on 4 November 1956, the United States revised draft resolution was not adopted. There were 9 votes in favour and 1 against, the negative vote being that of a permanent member of the Council.<sup>152</sup> The representative of Yugoslavia did not participate in the voting;<sup>153</sup> at the 755th meeting on 5 November 1956, he requested that his vote be recorded as an abstention.<sup>154</sup>

*Decision of 4 November 1956 (754th meeting): Deciding*  
*to call an emergency special session of the General*  
*Assembly*

At the 754th meeting on 4 November 1956, after the voting on the United States revised draft resolution, the representative of the United States submitted a draft resolution<sup>155</sup> according to which the Security Council would decide to call an emergency special session of the General Assembly, as provided in General Assembly resolution 377 (V), in order to make appropriate recommendations concerning the situation in Hungary.

At the same meeting, the draft resolution submitted by the United States was adopted by 10 votes in favour and 1 against.<sup>156</sup>

The resolution<sup>157</sup> read:

"The Security Council,

"Considering that a grave situation has been created by the use of Soviet military forces to suppress the efforts of the Hungarian people to reassert their rights,

"Taking into account that because of a lack of unanimity among its permanent members the Security Council has been unable to exercise its primary responsibility for the maintenance of international peace and security,

"Decides to call an emergency special session of the General Assembly, as provided in General Assembly resolution 377 A (V) of 3 November 1950, in order to make appropriate recommendations concerning the situation in Hungary."

The Secretary-General then stated that at the 751st meeting on 31 October 1956 he had made a declaration concerning the views he held on the duties of the Secretary-General and his understanding of the stands that he had to take. He wished to put on record that the observations he had made on that occasion obviously applied also to the present situation.<sup>158</sup>

The question remains on the list of matters of which the Security Council is seized.

<sup>145</sup> S/3730, S/3730/Rev.1, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 125-126.

<sup>146</sup> 753rd meeting: paras. 118-119.

<sup>147</sup> 753rd meeting: para. 50. For the consideration of the proposal for the adjournment of the meeting, see chapter I, part V, Case 33.

<sup>148</sup> S/3730/Rev.1, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 125-126.

<sup>149</sup> 754th meeting: para. 32.

<sup>150</sup> 754th meeting: para. 57.

<sup>151</sup> 754th meeting: para. 58.

<sup>152</sup> 754th meeting: para. 68.

<sup>153</sup> 754th meeting: para. 63.

<sup>154</sup> 755th meeting: para. 84.

<sup>155</sup> 754th meeting: para. 70.

<sup>156</sup> 754th meeting: para. 75.

<sup>157</sup> S/3733, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 127.

<sup>158</sup> 754th meeting: para. 76. For the declaration of the Secretary-General, see chapter I, part IV, Case 13.

**LETTER DATED 25 OCTOBER 1956 FROM THE REPRESENTATIVE OF FRANCE TO THE SECRETARY-GENERAL WITH COMPLAINT CONCERNING: MILITARY ASSISTANCE RENDERED BY THE EGYPTIAN GOVERNMENT TO THE REBELS IN ALGERIA**

INITIAL PROCEEDINGS

By letter<sup>159</sup> dated 25 October 1956 addressed to the Secretary-General, the representative of France requested that the following item be placed on the agenda of a forthcoming meeting of the Security Council: "Military assistance rendered by the Egyptian Government to the rebels in Algeria". In an accompanying memorandum it was stated that on 16 October 1956 a vessel bearing the name *Saint-Briavel*, but previously named *Athos*, flying no flag, had been examined by a French warship. It had been discovered that the *Athos* had no shipping papers and was loaded with arms and ammunition. According to statements of six clandestine passengers abroad, the ship had been loaded in a "prohibited area" in Alexandria on the night of 3-4 October, 159 Egyptian military personnel in uniform taking part in the loading operations. The arms were to have been delivered to the chief of the *maquis* of Turenne. It had been also discovered that the owner of the *Athos* had worked in Egyptian intelligence services, had been in charge of arms shipments to the Algerian *maquis* and kept in continuous contact with the Egyptian military authorities. These facts provided irrefutable evidence of the direct responsibility of Egypt in the rebellion in Algeria and of its attack on French sovereignty in flagrant violation of the fundamental rules of international law.

At the 747th meeting on 29 October 1956, the Security Council decided, without a vote, to include the item in the agenda.<sup>160</sup>

The President (France) stated that all members of the Council would agree that the representative of Egypt should be invited to take part in the debate. He therefore thought it advisable to adjourn the meeting in order to give him time to make his preparations.<sup>161</sup>

The Council has not considered the matter since that time.<sup>162</sup>

**LETTER DATED 30 OCTOBER 1956 FROM THE REPRESENTATIVE OF EGYPT ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL**

INITIAL PROCEEDINGS

By letter<sup>163</sup> dated 30 October 1956, the representative of Egypt transmitted to the President of the Security Council a letter from the Minister for Foreign Affairs of Egypt in which it was stated that the Egyptian

Ambassador in London had been handed a note by the Government of the United Kingdom containing an ultimatum to the Government of Egypt to: (a) stop all warlike actions by land, sea and air; (b) withdraw all Egyptian military forces ten miles from the Suez Canal; and (c) accept occupation by British and French forces of key positions at Port Said, Ismailia and Suez. Failing an answer by 6.30 a.m. Cairo time on 31 October, the Governments of France and the United Kingdom would intervene in whatever strength they might deem necessary to secure compliance. The Governments of the United Kingdom and France were taking as a pretext for their actions the current fighting within Egyptian territory between the attacking armed forces from Israel and the defending forces of Egypt. It was stated further that this threat of force by the United Kingdom and French Governments and the imminent danger of United Kingdom and French armed forces occupying Egyptian territory within a few hours, in flagrant violation of the rights of Egypt and of the Charter of the United Nations, impelled the Government of Egypt to request that the Security Council be convened immediately to consider this act of aggression by the United Kingdom and France. Until the Council had taken the necessary measures, Egypt had no choice but to defend itself and safeguard its rights against such aggression.

At the 750th meeting on 30 October 1956, the provisional agenda included the following items: "Letter dated 29 October 1956 from the representative of the United States of America, addressed to the President of the Security Council, concerning: 'The Palestine question: steps for the immediate cessation of military action of Israel in Egypt'; Letter dated 30 October 1956 from the representative of Egypt addressed to the President of the Security Council."<sup>164</sup>

The Security Council decided to include the letter from the representative of Egypt as the second item in the agenda of that meeting.<sup>165</sup>

After the Security Council had completed the consideration of the first item,<sup>166</sup> it began the consideration of the item submitted by the Government of Egypt.

The Council considered the question at the 750th and 751st meeting on 30 and 31 October 1956. The representative of Egypt was invited to take part in the discussion.<sup>167</sup>

*Decision of 31 October 1956 (751st meeting): To call an emergency special session of the General Assembly*

At the 751st meeting on 31 October 1956, the Secretary-General made a statement of his views on the duties of the Secretary-General in the instant case.<sup>168</sup>

<sup>159</sup> S/3689, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 98-100.

<sup>160</sup> 747th meeting: para. 9.

<sup>161</sup> 747th meeting: para. 11; See chapter III, part I, Case 14.

<sup>162</sup> On 4 February 1957, the representative of France addressed a further communication to the President of the Security Council (S/3783, O.R., 12th year, Suppl. for Jan.-Mar. 1957, pp. 5-7) concerning this matter.

<sup>163</sup> S. 3712, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 111.

<sup>164</sup> 750th meeting: preceding para. 1.

<sup>165</sup> 750th meeting: para. 9. For the adoption of the agenda, see chapter II, Case 8.

<sup>166</sup> See above, chapter VIII, "The Palestine question", p. 93.

<sup>167</sup> 750th meeting: preceding para. 11; 751st meeting: preceding para. 1.

<sup>168</sup> 751st meeting: paras. 1-5. For the statement of the Secretary-General, see chapter I, part IV, Case 12.

At the same meeting, the representative of Yugoslavia submitted a draft resolution<sup>169</sup> according to which the Security Council would decide to call an emergency special session of the General Assembly, as provided in General Assembly resolution 377 A (V) of 3 November 1950, in order to make appropriate recommendations.

The representative of the United Kingdom contended that the Yugoslav draft resolution was not in order and asked for a vote on his contention.<sup>170</sup>

The motion was rejected by 6 votes in favour and 1 against, with 1 abstention.<sup>171</sup>

At the same meeting, the draft resolution submitted by the representative of Yugoslavia was adopted by 7 votes in favour and 2 against, with 2 abstentions.<sup>172</sup>

The resolution<sup>173</sup> read:

*"The Security Council,*

*"Considering that a grave situation has been created by action undertaken against Egypt,*

*"Taking into account that the lack of unanimity of its permanent members at the 749th and 750th meetings of the Security Council has prevented it from exercising its primary responsibility for the maintenance of international peace and security,*

*"Decides to call an emergency special session of the General Assembly, as provided in General Assembly resolution 377 A (V) of 3 November 1950, in order to make appropriate recommendations."*

The representative of the United Kingdom and the President, as the representative of France, reserved the positions of their Governments concerning the legality of the resolution.<sup>174</sup>

The question remained on the list of matters of which the Security Council is seized.

#### THE INDIA-PAKISTAN QUESTION

By letter<sup>175</sup> dated 2 January 1957 to the President of the Security Council, the Minister for Foreign Affairs of Pakistan stated that India had refused, on one pretext or another, to honour the international commitments which it had accepted under the resolutions of the United Nations Commission for India and Pakistan dated 13 August 1958 and 5 January 1949. The statements of the Prime Minister of India and the steps taken by the so-called Constituent Assembly of Jammu and Kashmir in collusion with the Government of India in

regard to the disposition of the State of Jammu and Kashmir had further forced Pakistan to the conclusion that continuance of direct negotiations between the two Governments held no prospect of settling the dispute, and had created an explosive situation which constituted a serious threat to peace in the area. It was most essential that early action should be taken to implement the two resolutions of the United Nations Commission for India and Pakistan which constituted an international agreement between India and Pakistan that the question of the accession of the State of Jammu and Kashmir to India or Pakistan would be decided by means of a free and impartial plebiscite under United Nations auspices. The Minister for Foreign Affairs of Pakistan therefore requested the President of the Security Council to call an early meeting of the Security Council.

The question was considered by the Security Council at the 761st to 774th meetings held between 16 January and 21 February 1957, at the 791st meeting on 24 September 1957, and at the 795th to 805th, 807th and 808th meetings held between 9 October and 2 December 1957. The representatives of India and Pakistan were invited to take part in the discussion.

At the 761st meeting on 16 January 1957, the representative of Pakistan\* stated that "all the processes for peaceful settlement" of the dispute laid down in Article 33 of the United Nations Charter had been exhausted. In view of this situation, the representative of Pakistan requested the Security Council: (1) to call upon India to refrain from accepting the change envisaged by the new constitution adopted by the so-called Constituent Assembly of Srinagar; (2) under Article 37(2) of the Charter,<sup>176</sup> to spell out the obligations of the parties, under the terms of "the international agreement for a plebiscite as embodied in the United Nations resolutions". The representative of Pakistan suggested further that the Security Council should: (1) call upon the parties to withdraw all their troops from the State and also ensure that the local forces which remained behind should be placed under the representative of the Security Council and suitably reduced, if not disbanded altogether; (2) entrust to a United Nations force, which should be introduced into the area at once, the functions of protecting the State and ensuring internal security;<sup>177</sup> (3) disband all other forces, Indian, Pakistani and local, and remove all non-Kashmiri nationals, even in the police force, from Kashmir; (4) fix an early and firm date for the induction into office of the Plebiscite Administrator.<sup>178</sup>

At the 762nd meeting on 23 January 1957, the representative of India\* stated that the question which his Government had brought before the Security Council

<sup>169</sup> S/3719, 751st meeting: para. 71. For consideration of this draft resolution, see chapter VI, part I, Case 2.

<sup>170</sup> 751st meeting: para. 126. See also chapter I, part V, Case 22.

<sup>171</sup> 751st meeting: para. 127.

<sup>172</sup> 751st meeting: para. 147.

<sup>173</sup> S/3721, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 116-117.

<sup>174</sup> 751st meeting: paras. 150-151.

<sup>175</sup> S/3767, O.R., 12th year, Suppl. for Jan.-Mar. 1957, pp. 1-3.

<sup>176</sup> For discussion of the character of the decisions of the Security Council under Chapter VI of the Charter, see chapter X, part IV, Case 9.

<sup>177</sup> 761st meeting: para. 112.

<sup>178</sup> For consideration of the proposal for the use of a United Nations force in connexion with the Security Council's decisions under Chapter VI of the Charter, see chapter X, part IV, Case 10.

by its letter<sup>179</sup> of 1 January 1948 was a situation involving an act of aggression<sup>180</sup> against India and not a dispute; this question was still pending before the Security Council<sup>181</sup> and called for immediate action by the Security Council for avoiding a breach of international peace. Moreover, part II of the resolution of the Commission for India and Pakistan of 13 August 1948 relating to truce arrangements had not been carried out by Pakistan and part III relating to the holding of a plebiscite had therefore never come into force. The resolution of the Commission for India and Pakistan of 5 January 1949 which had been accepted by India concerned the implementation of part III of the earlier resolution and like that part and for the same reasons had never come into force. The Indian Government, which had accepted the resolution of the Commission for India and Pakistan on conditions concurred in by the Commission, was bound by resolutions of the Security Council only to the extent that they flowed from the Commission's resolutions and no further. The acts of the Constituent Assembly of the State of Jammu and Kashmir were municipal and not international acts and, therefore, no concern of the Security Council. The act of accession of Jammu and Kashmir to India was an international act, the legality of which, however, was beyond challenge and not in question and which involved no issue of international peace and security. The only issue of the latter kind was the aggression committed by Pakistan.

*Decision of 24 January 1957 (765th meeting): Reminding the Governments and authorities concerned of the principle embodied in certain resolutions and re-affirming the affirmation in the resolution of 30 March 1951*

At the 764th meeting on 24 January 1957, the Security Council had before it a joint draft resolution<sup>182</sup> submitted by the representatives of Australia, Colombia, Cuba, the United Kingdom and the United States.

At the 765th meeting on 24 January 1957, the joint draft resolution was adopted by 10 votes in favour and none against, with 1 abstention.<sup>183</sup>

The resolution<sup>184</sup> read:

*"The Security Council,*

*"Having heard statements from representatives of the Governments of India and Pakistan concerning the dispute over the State of Jammu and Kashmir,*

*"Reminding the Governments and authorities concerned of the principle embodied in its resolutions of 21 April 1948, 3 June 1948, 14 March 1950 and*

30 March 1951, and the United Nations Commission for India and Pakistan resolutions of 13 August 1948 and 5 January 1949, that the final disposition of the State of Jammu and Kashmir will be made in accordance with the will of the people expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations,

*"1. Reaffirms the affirmation in its resolution of 30 March 1951 and declares that the convening of a Constituent Assembly as recommended by the General Council of the 'All Jammu and Kashmir National Conference' and any action that Assembly may have taken or might attempt to take to determine the future shape and affiliation of the entire State or any part thereof, or action by the parties concerned in support of any such action by the Assembly, would not constitute a disposition of the State in accordance with the above principle.*

*"2. Decides to continue its consideration of the dispute."*

*Decision of 20 February 1957 (773rd meeting): Rejection of the joint draft resolution submitted by the representatives of Australia, Cuba, the United Kingdom and the United States*

At the 768th meeting on 15 January 1957, the representative of the United Kingdom introduced a draft resolution<sup>185</sup> jointly with the representatives of Australia, Cuba and the United States. In the joint draft resolution it was provided that the Security Council would: (1) request the President of the Security Council, the representative of Sweden, to examine with the Governments of India and Pakistan proposals which, in his opinion, were likely to contribute to the achievement of demilitarization or to the establishment of other conditions for progress toward the settlement of the dispute, having regard to the previous resolutions of the Security Council and of the United Nations Commission for India and Pakistan, and bearing in mind the statements of the representatives of the Governments of India and Pakistan and the proposal for the use of a temporary United Nations force; (2) authorize him to visit the subcontinent for this purpose; (3) request him to report to the Security Council as soon as possible but not later than 15 April 1957; (4) invite the Governments of India and Pakistan to co-operate with him in the performance of these functions; (5) request the Secretary-General and the United Nations representative for India and Pakistan to render such assistance to him as he might request.

At the 770th meeting on 18 February 1957, the representative of the USSR submitted amendments<sup>186</sup> to the joint draft resolution to: (1) replace the preamble by a different text; (2) amend paragraph 1 of the operative part to provide that the Security Council would request the President of the Council, the representative of Sweden, to examine with the Governments

<sup>179</sup> S/1100, Annex 28, O.R., Suppl. for Nov. 1948, p. 139.

<sup>180</sup> For the question whether the Security Council has considered the item before it as a "dispute" or a "situation", see chapter X, part II, Case 5.

<sup>181</sup> 762nd meeting: para. 11.

<sup>182</sup> S/3778.

<sup>183</sup> 765th meeting: para. 150.

<sup>184</sup> S/3779, O.R., 12th year, Suppl. for Jan.-Mar. 1957, p. 4.

<sup>185</sup> S/3787, O.R., 12th year, Suppl. for Jan.-Mar. 1957, pp. 7-8.

<sup>186</sup> S/3789, O.R., 12th year, Suppl. for Jan.-Mar. 1957, p. 8.

of India and Pakistan the situation in respect of Jammu and Kashmir, and to consider the progress that could be made towards the settlement of the problem, bearing in mind the statements of the representatives of the Governments of India and Pakistan; and (3) delete in paragraph 3 of the operative part the words "but not later than 15 April 1957".

At the 771st meeting on 18 February 1957, the representative of Colombia submitted an amendment<sup>187</sup> to the joint draft resolution to: (1) replace the preamble by a different text; (2) amend paragraph 1 of the operative part to provide that the Security Council would request the President of the Security Council, the representative of Sweden, to examine with the Governments of India and Pakistan proposals, which, in his opinion, were likely to contribute to the achievement of the provisions contemplated in the resolutions of 13 August 1948 and 5 January 1949, of the United Nations Commission for India and Pakistan, or to the establishment of other conditions for progress towards the settlement of the problem, bearing in mind the statements of the representatives of the Governments of India and Pakistan, the proposal for the use of a temporary United Nations force, if accepted by the parties, or the possibility to refer the problem to the International Court of Justice; and (3) replace in paragraph 3 of the operative part the last words by the following: "if possible not later than 15 April 1957".

At the 773rd meeting on 20 February 1957, the Security Council voted on the USSR amendment, the Colombian amendment and the joint draft resolution.

The USSR amendment was rejected by 1 vote in favour and 2 against, with 8 abstentions.<sup>188</sup> The Colombian amendment was rejected by 1 vote in favour and none against, with 10 abstentions.<sup>189</sup> The joint draft resolution was not adopted. There were 9 votes in favour and 1 against, with 1 abstention (the negative vote being that of a permanent member).<sup>190</sup>

*Decision of 21 February 1957 (774th meeting):*  
*Requesting the President of the Security Council, the representative of Sweden, to examine with the Governments of India and Pakistan any proposals likely to contribute to the settlement of the dispute*

At the 773rd meeting on 20 February 1957, the representative of the United States, jointly with the representatives of Australia and the United Kingdom, submitted a draft resolution<sup>191</sup> which, at the 774th meeting on 21 February 1957, was adopted by 10 votes in favour and none against, with 1 abstention.<sup>192</sup> Before adoption of the resolution, the representative of India observed that his Government felt engaged by only

those resolutions of the Security Council under Chapter VI of the Charter which it had accepted. However, the President of the Security Council would always be welcome in India.

The resolution<sup>193</sup> read:

*"The Security Council,*

*"Recalling its resolution of 24 January 1957, its previous resolutions and the resolutions of the United Nations Commission for India and Pakistan on the India-Pakistan question,*

*"1. Requests the President of the Security Council, the representative of Sweden, to examine with the Governments of India and Pakistan any proposals which, in his opinion, are likely to contribute towards the settlement of the dispute, having regard to the previous resolutions of the Security Council and of the United Nations Commission for India and Pakistan; to visit the sub-continent for this purpose; and to report to the Security Council not later than 15 April 1957;*

*"2. Invites the Governments of India and Pakistan to co-operate with him in the performance of these functions; and*

*"3. Requests the Secretary-General and the United Nations Representative for India and Pakistan to render such assistance as he may request."*

On 29 April 1957, the representative of Sweden submitted to the Security Council the report<sup>194</sup> he had prepared in pursuance of the resolution of the Security Council of 21 February 1957, in which he stated that he had inquired of the two Governments whether they would be prepared to submit to arbitration the question of whether part 1 of the resolution of 13 August 1948 had been implemented. The Government of Pakistan had fallen in with the suggestion in principle. The Government of India felt that the issues in dispute were not suitable for arbitration.

*"While I feel unable to report to the Council any concrete proposals which, in my opinion, at this time are likely to contribute towards a settlement of the dispute, as I was requested to do under the terms of reference of the Council's resolution of 21 February 1957 (S/3793), my examination of the situation as it obtains at present would indicate that, despite the present deadlock, both parties are still desirous of finding a solution to the problem. In this connexion the Council may wish to take note of expressions of sincere willingness to co-operate with the United Nations in the finding of a peaceful solution, which I received from both Governments."*

*Decision of 2 December 1957 (808th meeting):*  
*Requesting the United Nations Representative of India and Pakistan to make any recommendations to the parties for further appropriate action with a view to*

<sup>187</sup> S/3791/Rev.1, O.R., 12th year, Suppl. for Jan.-Mar. 1957, pp. 8-9.

<sup>188</sup> 773rd meeting: para. 124.

<sup>189</sup> 773rd meeting: para. 125.

<sup>190</sup> 773rd meeting: para. 126.

<sup>191</sup> S/3792 and Corr.1, 773rd meeting: para. 130.

<sup>192</sup> 774th meeting: para. 79.

<sup>193</sup> S/3793, O.R., 12th year, Suppl. for Jan.-Mar. 1957, p. 9.

<sup>194</sup> S/3821, O.R., 12th year, Suppl. for Apr.-June 1957, pp. 12-16.

*making progress toward the implementation of the resolutions of the United Nations Commission for India and Pakistan of 13 August 1948 and 5 January 1949 and toward a peaceful settlement*

At the 791st meeting on 24 September 1957, the Council, at the request of Pakistan, resumed consideration of the question on the basis of the report submitted by the representative of Sweden under the Security Council resolution of 21 February 1957.<sup>195</sup> Consideration of the question continued at the 795th to 805th meetings from 9 October to 21 November 1957, and at the 807th and 808th meetings on 28 November and 2 December 1957, respectively.

At the 797th meeting on 25 October 1957, the representatives of the United Kingdom and the United States urged that the Security Council call upon the United Nations Representative for India and Pakistan to consult again with the parties in order to bring about progress toward full implementation of the resolutions adopted by the Commission for India and Pakistan.

At the 803rd meeting on 18 November 1957, the Council had before it a joint draft resolution<sup>196</sup> submitted by the representatives of Australia, Colombia, the Philippines, the United Kingdom and the United States to request the United Nations Representative for India and Pakistan to make any recommendations to the parties for further action which he considered desirable in connexion with Part I of the United Nations Commission for India and Pakistan resolution of 13 August 1948, and to enter into negotiations with the Governments of India and Pakistan in order to implement Part II of the same resolution, and in particular to reach agreement on a reduction of forces on each side of the cease-fire line to a specified number arrived at on the basis of the relevant Security Council resolutions.

At the 807th meeting on 28 November 1957, the representative of Sweden submitted an amendment<sup>197</sup> to the fourth paragraph of the preamble, and an amendment to the second paragraph of the operative part of the joint draft resolution before the Council.

At the 808th meeting on 2 December 1957, the amendments submitted by the representative of Sweden were adopted by 10 votes in favour and none against, with 1 abstention.<sup>198</sup> The joint draft resolution, as amended, was adopted by 10 votes in favour and none against, with 1 abstention.<sup>199</sup>

The resolution<sup>200</sup> read:

*"The Security Council,*

*"Having received and noted with appreciation the report of Mr. Gunnar V. Jarring, the representative*

<sup>195</sup> 791st meeting: para. 8.

<sup>196</sup> S 3911, O.R., 12th year, Suppl. for Oct.-Dec. 1957, pp. 10-11.

<sup>197</sup> S/3920, 807th meeting: para. 3.

<sup>198</sup> 808th meeting: para. 8.

<sup>199</sup> 808th meeting: para. 17.

<sup>200</sup> S/3922, O.R., 12th year, Suppl. for Oct.-Dec. 1957, pp. 21-22.

of Sweden, on the mission undertaken by him pursuant to the Security Council resolution of 21 February 1957,

*"Expressing its thanks to Mr. Jarring for the care and ability with which he has carried out his mission,*

*"Observing with appreciation the expressions made by both parties of sincere willingness to co-operate with the United Nations in finding a peaceful solution,*

*"Observing further that the Governments of India and Pakistan recognize and accept the provisions of its resolution dated 17 January 1948 and of the resolutions of the United Nations Commission for India and Pakistan dated 13 August 1948 and 5 January 1949, which envisage in accordance with their terms the determination of the future status of the State of Jammu and Kashmir in accordance with the will of the people through the democratic method of a free and impartial plebiscite, and that Mr. Jarring felt it appropriate to explore what was impeding their full implementation,*

*"Concerned over the lack of progress towards a settlement of the dispute which his reports manifests,*

*"Considering the importance which it has attached to demilitarization of the State of Jammu and Kashmir as one of the steps towards a settlement,*

*"Recalling its previous resolutions and the resolutions of the United Nations Commission for India and Pakistan on the India-Pakistan question,*

*"1. Requests the Government of India and the Government of Pakistan to refrain from making any statements and from doing or causing to be done or permitting any acts which might aggravate the situation and to appeal to their respective peoples to assist in creating and maintaining an atmosphere favourable to the promotion of further negotiations;*

*"2. Requests the United Nations representative for India and Pakistan to make any recommendations to the parties for further appropriate action with a view to making progress toward the implementation of the resolutions of the United Nations Commission for India and Pakistan of 13 August 1948 and 5 January 1949 and toward a peaceful settlement;*

*"3. Authorizes the United Nations representative to visit the sub-continent for these purposes; and*

*"4. Instructs the United Nations representative to report to the Security Council on his efforts as soon as possible."<sup>201</sup>*

## THE TUNISIAN QUESTION (I)

### INITIAL PROCEEDINGS

By letter<sup>202</sup> dated 13 February 1958, the representative of Tunisia requested the President of the

<sup>201</sup> The United Nations representative reported pursuant to the resolution on 31 March 1958 [S 3984, O.R., 13th year, Suppl. for Jan.-Mar. 1958, pp. 38-46].

<sup>202</sup> S 3952, O.R., 13th year, Suppl. for Jan.-Mar. 1958, pp. 13-14.



Security Council to call the Security Council to consider the following question:

“Complaint by Tunisia in respect of an act of aggression committed against it by France on 8 February 1958 at Sakiet-Sidi-Youssef”.

In an explanatory memorandum attached to the letter, the representative of Tunisia stated that on 8 February 1958, twenty-five bomber and fighter aircraft subjected the village of Sakiet-Sidi-Youssef, near the Algerian border, and the area immediately surrounding it “to a massive bombardment with bombs and rockets and continuous strafing by machine-guns”. Seventy-nine persons had been killed and one hundred and thirty wounded during this attack, which constituted “an act of armed aggression by France against Tunisia”. The representative of Tunisia added that he had previously informed the Secretary-General of earlier acts of aggression and of the fact that they were violations of Article 2(4) of the Charter and that, in accordance with Article 51 of the Charter, the Tunisian Government proposed to exercise its right of self-defence. The intentions expressed by the French Government did not appear to hold out any prospect that these deliberate attacks on Tunisia’s sovereignty committed since June 1957 and flagrant violations of Article 2(4) would cease. Accordingly, he seized the Security Council of “the situation created by the deliberate act of aggression committed on 8 February 1958” and requested it “to take whatever decision it may deem appropriate to put an end to a situation which threatens Tunisia’s security and endangers international peace and security in that part of the world”.

By letter<sup>203</sup> to the President of the Security Council dated 14 February 1958, the representative of France requested that the Security Council should at its next meeting consider the following complaint:

“Situation resulting from the aid furnished by Tunisia to rebels enabling them to conduct operations from Tunisian territory directed against the integrity of French territory and the safety of the persons and property of French nationals”.

In an explanatory memorandum attached to the letter, the representative of France stated that the Tunisian Government had not shown itself capable of maintaining order on the Franco-Tunisian frontier and that the Algerian rebels, aided and abetted by the Tunisian authorities, had been able to establish in Tunisia a complete organization enabling them to carry out numerous border violations and incursions into the French territory. A particularly serious incident had occurred on 11 January 1958 in the vicinity of Sakiet-Sidi-Youssef where, in the course of an engagement with a rebel band which had come from Tunisia, sixteen French soldiers were killed and four taken prisoner. In addition, aircraft flying over French territory had on several occasions sustained damage caused by automatic weapons fired from the building in that village occupied by the Tunisian National Guard. The reaction of the

French Air Force at the time of the incident to which the Tunisian complaint referred had thus been the outcome of the many acts of provocation to which French forces had been subjected. For these reasons, the French Government considered that “Tunisia has seriously failed in its obligations as a State Member of the United Nations and has directly and indirectly caused very grave injury to the legitimate interests of France”. The French Government accordingly asked that “the assistance furnished by Tunisia to the Algerian rebels should be condemned by the Council”.

By letter<sup>204</sup> dated 17 February 1958, the representative of Tunisia furnished the President of the Security Council the following “additional details” in respect to his earlier letter of 14 February 1948: the phrase in the earlier letter “situation which threatens Tunisia’s security” meant the threat to Tunisia’s “security and to international peace and security as a result of the presence of French troops in Tunisia”, a threat “regarded as so serious that the Tunisian Government has requested the complete withdrawal of these troops from Tunisian territory”. By the phrase “situation which endangers international peace and security in that part of the world” was meant “the war in Algeria and its repercussions on the security of a Member State, Tunisia, particularly by way of encroachment upon Tunisian territory”. He further stated that it was becoming increasingly clear that “this situation must be regarded as calculated, if it continues, to constitute a serious danger to international peace and security”.

#### *Decision of 18 February 1958 (811th meeting): Adjournment*

In the provisional agenda for the 811th meeting on 18 February 1958, item 2 was the letter of 13 February 1958 from the representative of Tunisia, and item 3, the letter of 14 February 1958 from the representative of France.

After the adoption of the agenda,<sup>205</sup> the President (USSR) invited the representative of Tunisia to participate in the meeting of the Council.<sup>206</sup>

The representatives of the United States and the United Kingdom informed the Council that their Governments had extended to the Governments of France and Tunisia an offer of good offices on the problems outstanding between them<sup>207</sup> which had been accepted by both parties.<sup>208</sup>

The representative of Sweden stated that the Council would be well advised “to adjourn in order to allow

<sup>204</sup> S/3957, *O.R.*, 13th year, *Suppl. for Jan.-Mar. 1958*, pp. 17-18.

<sup>205</sup> 811th meeting: para. 4.

<sup>206</sup> 811th meeting: para. 5; see also, chapter III, part I, Case 20.

<sup>207</sup> For consideration of the tender of good offices in connexion with Article 33, see chapter X, part I, Case 1.

<sup>208</sup> 811th meeting: paras. 6, 11.

<sup>203</sup> S/3954, *O.R.*, 13th year, *Suppl. for Jan.-Mar. 1958*, pp. 15-16.

these discussions to proceed in an atmosphere conducive to their successful outcome".<sup>209</sup>

After a brief discussion, the representative of Japan proposed the immediate adjournment of the meeting.<sup>210</sup>

The President stated that if there were no objections, the Council would regard the proposal of the representative of Japan as adopted.<sup>211</sup>

## THE TUNISIAN QUESTION (II)

### INITIAL PROCEEDINGS

By letter<sup>212</sup> dated 29 May 1958, the representative of Tunisia requested the President of the Security Council to call a meeting of the Council to consider the following question:

"Complaint by Tunisia in respect of acts of armed aggression committed against it since 19 May 1958 by the French military forces stationed in its Territory and in Algeria."

In an explanatory memorandum attached to the letter, the representative of Tunisia referred to his letter<sup>213</sup> dated 13 February 1958 to the President of the Security Council in which he had informed the Council of the measures taken by the Tunisian Government in the exercise of its right of self-defence, in accordance with Article 51<sup>214</sup> of the Charter, following the aggression of Sakiet-Sidi-Youssef. The Tunisian Government had prohibited the French armed forces occupying positions in Tunisia against its wishes from engaging in any troop movements, sending French naval units into Tunisian ports, landing or parachuting reinforcements and flying French military aircraft over Tunisian territory.

"At the Secretary-General's instance and following the assurances given by him, the Tunisian Government accorded very liberal facilities to ensure food supplies to the immobilized troops.

"The preventive security measures were maintained throughout the good offices' action undertaken by the Governments of the United States of America and of the United Kingdom of Great Britain and Northern Ireland to bring the views of the French and Tunisian Governments closer together. On 15 March 1958, these good offices resulted in a compromise laying down, *inter alia*, the procedure for the evacuation of the French troops from Tunisia. This compromise was accepted by both the French and Tunisian Governments, but its provisions were not applied, inasmuch as the French Government was unable to ratify it.

<sup>209</sup> 811th meeting: para. 14.

<sup>210</sup> 811th meeting: para. 53; for the discussion of rule 26 of the rules of procedure, see chapter I, part IV.d, Case 20.

<sup>211</sup> 811th meeting, para. 55.

<sup>212</sup> S/4013, O.R., 13th year, Suppl. for Apr.-June 1958, pp. 37-39.

<sup>213</sup> S/3951, O.R., 13th year, Suppl. for Jan.-Mar. 1958, pp. 12-13.

<sup>214</sup> For statements concerning the applicability of Article 51 of the Charter, see chapter XII, part IV, Case 5.

"In its desire to settle the dispute with France amicably, the Tunisian Government, while noting the suspension of the good offices mission owing to its partner's failure, did not wish to turn to the Security Council again immediately, because it preferred to leave all possibilities open for an amicable settlement. It was of course understood—and the Tunisian Government received assurances to that effect under the good offices' action—that the measures taken by Tunisia against the French troops would remain in force."

On 24 May 1958, however, the French troops stationed at Remada made a sortie from their barracks and tried to force a barrier at Bir Kanbout, opening fire on the Tunisian elements guarding it, and on 25 May French bombers and fighters attacked the Remada area. The Government of Tunisia would

"...draw the Security Council's attention to the extreme gravity of the situation resulting from these repeated acts of what is indisputably armed aggression against its territorial integrity by the French forces stationed in its territory against its wishes and by those operating in Algeria", and

finding that its efforts at conciliation "have failed and that its sovereignty is gravely threatened", requested the Security Council to:

"...take such measures as it may deem necessary—in accordance with Article 40 and subsequent Articles of the United Nations Charter—in order to put an end to this situation, which threatens not only the security of Tunisia, but also international peace and security in that part of the world."

By letter<sup>215</sup> dated 29 May 1958 to the President of the Security Council, the representative of France requested that the Council should, at its next meeting, consider:

"1. The complaint brought by France against Tunisia on 14 February 1958 (document S/3954);

"2. The situation arising out of the disruption, by Tunisia, of the *modus vivendi* which had been established since February 1958 with regard to the stationing of French troops at certain points in Tunisian territory."

In an explanatory memorandum attached to the letter, the representative of France stated that during the incident at Remada, all the measures taken by the French authorities showed their concern not to aggravate the incidents provoked by the Tunisians. He stated further that the French Government had never ceased to seek a comprehensive or specific settlement of the various difficulties between France and Tunisia. The President of Tunisia, however, while conversations between him and the Chargé d'Affaires of France had been in progress, by deciding to come again before the Security Council, had seen fit to create the impression that the French authorities had been preparing to violate Tunisian sovereignty. These contradictory attitudes of the

<sup>215</sup> S/4015, O.R., 13th year, Suppl. for Apr.-June 1958, pp. 42-44.

Tunisian Government would not discourage the French Government in its efforts to settle the unresolved difficulties between the two countries by an amicable understanding. The French Government therefore called upon the Security Council "to recommend to the Tunisian Government that it should restore conditions favourable to a resumption of negotiations".

At the 819th meeting on 2 June 1958, the Security Council had before it a provisional agenda<sup>216</sup> in which were listed, as item 2, the letter from the representative of Tunisia of 29 May 1958 and as item 3, the letter from the representative of France of 29 May 1958.

After the adoption of the agenda,<sup>217</sup> the President (China) invited the representative of Tunisia to take a place at the Council table.<sup>218</sup>

The Security Council considered the question at its 819th to 821st meetings, held on 2 and 4 June 1958.

At the 819th meeting on 2 June 1958, the representative of Tunisia\* contended that the presence on Tunisian territory of French armed forces stationed there against its will constituted a threat to the peace within the meaning of Article 39 of the Charter and a threat to the security of Tunisia itself, and therefore asked the Council to take, in accordance with Article 39, all appropriate measures provided for in Articles 40 and 41 and the following Articles of the Charter, to assist Tunisia to obtain the withdrawal of French troops. Pending such withdrawal, the representative of Tunisia asked the Council, acting under Article 40 of the Charter, to offer the following provisional measures:

"...formally to request France: first, to ensure that its troops stationed in Tunisia observe the preventive security measures taken in respect of them by the Government of the Republic of Tunisia on 8 February 1958 and communicated to the President of the Security Council on 13 February 1958, measures which included a prohibition of all French troop movements in Tunisia; and secondly, to ensure that all other French forces observe the decision taken on 8 February 1958 to prohibit naval units from entering Tunisian ports, and to prohibit any landing or parachuting of reinforcements and all flights over Tunisian territory..."<sup>219</sup>

*Decision of 4 June 1958 (821st meeting): Statement by the President noting the statements of the Head of the French Government and of the President of Tunisia*

At the 821st meeting on 4 June 1958, the representative of France referred to the exchange of messages between the Prime Minister of France and the President of Tunisia and proposed "to have a two-week postponement of this debate" so as to allow conversation for the settlement of existing difficulties between France and Tunisia to take place.<sup>220</sup>

The representative of Tunisia\* preferred an adjournment until 18 June 1958.<sup>221</sup>

The President (China) stated that there being no objection to this proposal, it was so decided.<sup>222</sup>

The President then stated that with the taking of this decision, it remained for him to express the good wishes of the Council "for the success of negotiations which are to be undertaken between France and Tunisia". He stated further:

"I note with particular interest that the head of the French Government, in his message to President Bourguiba, specifically pledged to prevent any action on the part of French authorities that might aggravate the situation. I also note that President Bourguiba has responded in a spirit of ready co-operation."<sup>223</sup>

At the 826th meeting on 18 June 1958, the representatives of France and of Tunisia informed the Council of the agreement in the form of an exchange of letters reached by their Governments on 17 June. The agreement provided for evacuation of French troops from all Tunisian territory except Bizerte and for complete restoration of the freedom of movement of French forces. In the four-month interval until completion of the evacuation of French forces, the two Governments would engage in negotiations to define a provisional statute for the strategic base at Bizerte.

At the conclusion of the meeting, the President extended the congratulations of the Security Council to the two Governments on their success in removing their difficulties through direct negotiations.

**LETTER DATED 20 FEBRUARY 1958 FROM THE REPRESENTATIVE OF THE SUDAN ADDRESSED TO THE SECRETARY-GENERAL**

INITIAL PROCEEDINGS

By letter<sup>224</sup> dated 20 February 1958, the representative of the Sudan requested the Secretary-General to call an urgent meeting of the Council "to discuss the grave situation existing on the Sudan-Egyptian border, resulting from the massed concentrations of Egyptian troops moving towards the Sudanese frontiers".

To the letter was attached a communication dated 20 February 1958 from the Prime Minister of the Sudan indicating that the Government of Egypt claimed sovereignty over certain Sudanese territories which it proposed to include in arrangements for a plebiscite to take place in Egypt. Since the Sudanese Government, which had twice asked the Egyptian Government for time to negotiate, was determined to defend its territories, Sudan requested the Secretary-General "to ask the Security Council to meet immediately and use its good offices to stop the impending Egyptian aggression".

<sup>216</sup> S/Agenda 819.

<sup>217</sup> 819th meeting: para. 2.

<sup>218</sup> 819th meeting: para. 2.

<sup>219</sup> 819th meeting: paras. 66-67.

<sup>220</sup> 821st meeting: para. 51.

<sup>221</sup> 821st meeting: para. 57.

<sup>222</sup> 821st meeting: para. 62; see also chapter I, part V.2.d, Case 37.

<sup>223</sup> 821st meeting: paras. 59-61.

<sup>224</sup> S/3963, O.R., 13th year, Suppl. for Jan.-Mar. 1958, pp. 21-22.

At the 812th meeting on 21 February 1958, the Security Council decided to include the question in its agenda.<sup>225</sup> After the adoption of the agenda, the President (USSR) invited the representatives of Egypt and the Sudan to participate in the discussion.<sup>226</sup>

The Council considered the question at its 812th meeting on 21 February 1958.

*Decision of 21 February 1958 (812th meeting): Statement by the President (USSR) summarizing the views of the members of the Council*

At that meeting, the representative of Sudan \* stated that the Government of Egypt in a note of 29 January 1958 had requested that appropriate measures be taken by the Sudan Government to hand over two areas of Sudan territory north of 22 latitude to the Egyptian Government, which had indicated willingness to hand over to the Sudan a region near the north-eastern frontier, previously ceded to Egypt. Before a reply to the Egyptian notes could be prepared, the Sudan Government had received reports that a contingent of the Egyptian Army was on its way to one of the claimed areas. After having explained the point of view of the Sudan Government on the matter, the representative of the Sudan expressed the hope that the Council would adopt "a measure which will calm the situation that exists between Egypt and the Sudan and pave the way for a peaceful and friendly solution".<sup>227</sup>

The representative of Egypt \* deplored the fact that the Government of Sudan had decided to submit the question to the Security Council after having rejected several suggestions submitted by Egypt with a view to finding a solution to this dispute in accordance with the spirit of the Charter, and before having exhausted recourse to the other pacific means of settlement mentioned particularly in Article 33.<sup>228</sup> The representative of Egypt observed further that the letter submitted by the Sudan used the term "aggression". In the meaning of the Charter, "aggression" referred to an armed aggression and this was not the case with regard to the question before the Council. The kind of "aggression" referred to in this connexion, which had been called "imminent", was difficult to conceive. The representative of Egypt quoted a communiqué issued by the Egyptian Government on 21 February 1958 in which it was stated that it had decided to postpone the settling of the frontier question until after the Sudanese elections and that negotiations were to begin for the settling of all undecided questions after the new Sudanese Government was chosen.<sup>229</sup>

After the resumption<sup>230</sup> of the meeting, which, on the

<sup>225</sup> 812th meeting: preceding para. 1.

<sup>226</sup> 812th meeting: para. 1; see also chapter III, part I, Case 21.

<sup>227</sup> 812th meeting: paras. 5, 16, 33.

<sup>228</sup> For consideration of the bearing of Article 33 on the proceedings, see chapter X, part I, Case 2.

<sup>229</sup> 812th meeting: paras. 41, 46.

<sup>230</sup> 812th meeting: para. 49.

proposal of the representative of Japan, had been suspended for an hour, the representatives of the United States, Japan, the United Kingdom, Iraq, France and the President, speaking as the representative of the USSR, expressed the views that the question before the Council should be settled by the two Governments concerned by direct negotiations.

The President (USSR) summed up the views of the members of the Council as follows:

"The Security Council has heard the statements of the representatives of the Sudan and Egypt and notes the Egyptian representative's assurances that his Government has decided to postpone the settlement of the frontier question until the elections in the Sudan are over. Of course, the question put forward by the Sudan remains before the Council."<sup>231</sup>

**URGENT MEASURES TO PUT AN END TO FLIGHTS BY UNITED STATES MILITARY AIRCRAFT ARMED WITH ATOMIC AND HYDROGEN BOMBS IN THE DIRECTION OF THE FRONTIERS OF THE SOVIET UNION**

INITIAL PROCEEDINGS

By letter<sup>232</sup> dated 18 April 1958, the representative of the USSR requested the President of the Security Council to call an urgent meeting of the Council to consider the following question:

"Urgent measures to put an end to flights by United States military aircraft armed with atomic and hydrogen bombs in the direction of the frontiers of the Soviet Union."

He added that the threat to the cause of peace as a result of the danger arising out of the numerous cases of flights in the direction of the frontiers of the USSR by United States bombers carrying hydrogen bombs made it imperative that this question should be considered without delay. The Charter conferred on the Security Council primary responsibility for the maintenance of international peace and security; the Government of the USSR, therefore, hoped that the Council would give this question the most urgent consideration and would take "the necessary steps to eliminate this threat to the cause of peace".

At the 813th meeting on 21 April 1958, the Security Council included the question in its agenda, and considered it at the 813th to 817th meetings held between 21 April and 2 May 1958.

*Decision of 2 May 1958 (816th meeting): Rejection of the United States draft resolution; rejection of the USSR draft resolution*

At the 813th meeting on 21 April 1958, the representative of the USSR submitted a draft resolution<sup>233</sup>

<sup>231</sup> For texts of relevant statements, see:

812th meeting: President (USSR), paras. 80-81; Canada, paras. 67-68; France, paras. 65-66; Iraq, para. 62; Japan, para. 48; United Kingdom, paras. 59-61; United States, paras. 50-53.

<sup>232</sup> S/3990, O.R., 13th year, Suppl. for Apr.-June 1958, p. 8.

<sup>233</sup> S/3993, O.R., 13th year, Suppl. for Apr.-June 1958, p. 13.

under which the Security Council, having examined the question submitted by the USSR and considering that the practice of making such flights increased tension between States, would have declared it to constitute a threat to the security of nations which, if continued, might lead to a breach of world peace and the unleashing of an atomic war of annihilation, and would have called upon the United States to refrain from sending its military aircraft carrying atomic and hydrogen bombs in the direction of the frontiers of other States for the purpose of threatening their security or staging military demonstrations.

The President, speaking as the representative of the United States, said that nothing the United States had done could be regarded as "anything except the inescapable requirements of legitimate self-defence", undertaken in the face of continued resistance to countless efforts on its part to negotiate and, through negotiation, to settle its differences with the Government of the USSR. Until all fears of surprise attack were banished by effective international arrangements, the United States was compelled to take all steps necessary to protect itself from being overwhelmed. The United States had proposed to the Soviet Union agreement on a plan for mutual aerial inspection which was directly relevant to the pending complaint but the Soviet Union had failed to give a constructive response.<sup>234</sup>

Following statements by the representatives of Canada, China, France, the United Kingdom, Japan, Iraq, Colombia and Panama,<sup>235</sup> the President proposed to put the USSR draft resolution to the vote.<sup>236</sup> The representative of the USSR objected to the President's proposal to put the draft resolution to the vote forthwith as an unprecedented procedure. He proposed to adjourn the meeting to 22 April at 3.00 p.m. This proposal was rejected as was his proposal to adjourn the meeting until 22 April at 10.30 a.m.<sup>237</sup>

The representative of the USSR thereupon declared that "it must be noted for the record that the United States representative preferred to avoid consideration and free discussion in the Council and to resort to the machinery of voting", and withdrew his draft resolution "as a sign of protest".

At the 814th meeting on 29 April 1958, the Security Council had before it a draft resolution<sup>238</sup> submitted by the United States, under which the Security Council, noting the development, particularly in the USSR and the United States, of growing capabilities of massive surprise attack, believing that the establishment of

measures to allay fears of such massive surprise attack would help reduce tensions and would contribute to the increase of confidence among States, noting the statements of certain members of the Council regarding the particular significance of the Arctic area, would have (a) recommended that there be promptly established the northern zone of international inspection against surprise attack, comprising the area north of the Arctic Circle with certain exceptions and additions, that had been considered by the United Nations Disarmament Sub-Committee of Canada, France, the USSR, the United Kingdom and the United States during August 1957; (b) called upon the five States mentioned, together with Denmark and Norway, and any other States having territory north of the Arctic Circle which desired to have such territory included in the zone of international inspection, at once to designate representatives to participate in immediate discussions with a view to agreeing on the technical arrangements required; and (c) decided to keep the matter on its agenda for such further consideration as might be required.

The representative of Sweden submitted an amendment<sup>239</sup> to the United States draft resolution to insert a new paragraph between the last two paragraphs under which the Security Council would have expressed the view that such discussions might serve as a useful basis for the deliberations on the disarmament problem at the summit conference on the convening of which talks were in progress.

At the same meeting, the representative of the USSR submitted a draft resolution<sup>240</sup> identical with the draft resolution submitted at the 813th meeting, with a new concluding paragraph, according to which the Security Council, mindful of the necessity for taking steps as soon as possible to avert the threat of atomic warfare and ease international tension, would have noted with satisfaction that preliminary talks were in progress between the interested States with a view to the convening of a summit conference to discuss a number of urgent problems, including the question of drawing up measures to preclude the danger of a surprise attack, and would have expressed the hope that the summit conference would be held at the earliest possible date.

At the 815th meeting on 29 April 1958, the Secretary-General made a statement.<sup>241</sup>

At the 816th meeting on 2 May 1958, the representative of the United States accepted the Swedish amendment to the United States draft resolution. He suggested that the word "the" before the word "summit" be changed to the word "a".<sup>242</sup>

The representative of Sweden accepted this change in the Swedish amendment.<sup>243</sup>

At the 817th meeting on 2 May 1958, the United

<sup>234</sup> 813th meeting: paras. 30, 35, 45-48.

<sup>235</sup> For texts of relevant statements, see:

813th meeting: Canada, paras. 53, 56; China, paras. 65-68; Colombia, paras. 119-120; France, paras. 82-84; Iraq, para. 112; Japan, paras. 98, 101-103; Panama, paras. 125-126, 132-133; United Kingdom, paras. 86, 88, 90, 93, 95.

<sup>236</sup> 813th meeting: para. 134.

<sup>237</sup> For the debate subsequent to the President's proposal to put the draft resolution to the vote, and for the proposals of the representative of the USSR and the respective decisions, see chapter I, part V.2.d, Case 35.

<sup>238</sup> S/3995, O.R., 13th year, Suppl. for Apr.-June 1958, p. 15.

<sup>239</sup> S/3998.

<sup>240</sup> S/3997, O.R., 13th year, Suppl. for Apr.-June 1958, pp. 15-16.

<sup>241</sup> 815th meeting: paras. 82-90; see also chapter I, part IV.2, Case 16.

<sup>242</sup> 816th meeting: para. 4.

<sup>243</sup> 816th meeting: para. 5.

States draft resolution, as amended, was put to the vote and failed of adoption. There were 10 votes in favour and 1 against (the negative vote being that of a permanent member).<sup>244</sup>

The USSR draft resolution was put to the vote and was rejected by 1 vote in favour, 9 against, with 1 abstention.<sup>245</sup>

#### COMPLAINT BY LEBANON

#### COMPLAINT BY JORDAN

**LETTER DATED 22 MAY 1958 FROM THE REPRESENTATIVE OF LEBANON ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL CONCERNING: "COMPLAINT BY LEBANON IN RESPECT OF A SITUATION ARISING FROM THE INTERVENTION OF THE UNITED ARAB REPUBLIC IN THE INTERNAL AFFAIRS OF LEBANON, THE CONTINUANCE OF WHICH IS LIKELY TO ENDANGER THE MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY"**

**LETTER DATED 17 JULY 1958 FROM THE REPRESENTATIVE OF JORDAN ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL CONCERNING: "COMPLAINT OF THE HASHEMITE KINGDOM OF JORDAN OF INTERFERENCE IN THE DOMESTIC AFFAIRS BY THE UNITED ARAB REPUBLIC"**

#### INITIAL PROCEEDINGS

By letter<sup>246</sup> dated 22 May 1958, the representative of Lebanon requested the President of the Security Council to call an urgent meeting of the Council to consider the following question:

"Complaint by Lebanon in respect of a situation arising from the intervention of the United Arab Republic in the internal affairs of Lebanon, the continuance of which is likely to endanger the maintenance of international peace and security".

It was stated in the letter that the intervention complained of consisted, *inter alia*, of the following acts:

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

At the 818th meeting on 28 May 1958, the Security Council included the question in the agenda.<sup>247</sup> After its adoption, the President (Canada) invited the representative of Lebanon and the United Arab Republic to participate in the discussion.<sup>248</sup>

<sup>244</sup> 817th meeting: para. 3.

<sup>245</sup> 817th meeting: para. 11.

<sup>246</sup> S/4007, O.R., 13th year, Suppl. for Apr.-June 1958, p. 33.

<sup>247</sup> 818th meeting: para. 6.

<sup>248</sup> 818th meeting: para. 7.

The Security Council considered the question at the 818th, 822nd to 825th and 827th to 838th meetings, held between 27 May and 7 August 1958.

At the 818th meeting on 27 May 1958, the representative of Iraq proposed to adjourn the meeting until 3 June 1958 by which time it would be seen whether or not the question could be resolved by the League of Arab States.<sup>249</sup> After a brief discussion, the Council adjourned until 3 June 1958.

Following a further postponement at the request of Lebanon,<sup>250</sup> the Council, at its 822nd meeting on 5 June 1958, decided, on the ground that the League of Arab States was holding its last meeting on the same day, to postpone consideration of the question until 6 June 1958.<sup>251</sup>

At the 823rd meeting on 6 June 1958, the representative of Lebanon\* stated that the League of Arab States,<sup>252</sup> which had been in session for six days, had taken no decision on the question; consequently, the Government of Lebanon was bound to press it before the Security Council. He contended: (1) that there had been and still was illegal intervention in the affairs of Lebanon by the United Arab Republic; (2) that this intervention threatened the independence of Lebanon; and (3) that the situation created by the intervention was likely, if it continued, to endanger the maintenance of international peace and security.<sup>253</sup>

The representative of the United Arab Republic\* stated that the Government of Lebanon had endeavoured to give an international aspect to a purely domestic problem and denied that there had been any intervention by the United Arab Republic in the domestic affairs of Lebanon. He contended that this domestic question did not and could not threaten international peace.<sup>254</sup>

#### *Decision of 11 June 1958 (825th meeting): Dispatch of an observation group*

At the 824th meeting on 10 June 1958, the representative of Sweden submitted a draft resolution<sup>255</sup> calling for urgent dispatch by the Security Council of an observation group<sup>256</sup> to Lebanon so as to ensure that there was no illegal infiltration of personnel or supply of arms or other material across the Lebanese border.

The representative of Sweden observed that the Security Council had reason to give the statements of the representatives of Lebanon and the United Arab

<sup>249</sup> 818th meeting: para. 8. For discussion relevant to the consideration of the question by the League of Arab States, see chapter XII, part IV, Case 5.

<sup>250</sup> S/4018, O.R., 13th year, Suppl. for Apr.-June 1958, p. 44.

<sup>251</sup> 822nd meeting: paras. 1, 3, 5.

<sup>252</sup> For the proposal to adjourn the 818th and 822nd meetings while the League of Arab States was considering the question, see chapter XII, part IV, Case 5.

<sup>253</sup> 823rd meeting: para. 11.

<sup>254</sup> 823rd meeting: paras. 122-123.

<sup>255</sup> S/4022.

<sup>256</sup> For the procedure of the Security Council in establishing the observation group, see chapter V, part I, Case 1.

Republic serious consideration and to keep a close watch on the situation and its further developments. If foreign intervention had occurred, every effort should be made to bring about its correction. In these circumstances, there might be justification for considering some arrangement of investigation or observation by the Council itself with a view to clarifying the situation.<sup>257</sup>

At the 825th meeting on 11 June 1958, the draft resolution submitted by the representative of Sweden was adopted by 10 votes in favour, none against and 1 abstention.<sup>258</sup>

The resolution<sup>259</sup> read:

“*The Security Council,*

“*Having heard the charges of the representative of Lebanon concerning interference by the United Arab Republic in the internal affairs of Lebanon and the reply of the representative of the United Arab Republic,*

“*Decides to dispatch urgently an observation group to proceed to Lebanon so as to ensure that there is no illegal infiltration of personnel or supply of arms or other material across the Lebanese borders;*

“*Authorizes the Secretary-General to take the necessary steps to that end;*

“*Requests the observation group to keep the Security Council currently informed through the Secretary-General.*”

The Secretary-General submitted to the Security Council reports on the implementation of the resolution of 11 June 1958 on 16 June<sup>260</sup> and 28 June.<sup>261</sup>

On 3 July 1958, the United Nations Observation Group in Lebanon submitted its First Report<sup>262</sup> to the Security Council through the Secretary-General.

By letter<sup>263</sup> dated 8 July 1958, the representative of Lebanon requested the Secretary-General to circulate his Government's official comments on the first report of the Observation Group.

*Decision of 18 July 1958 (834th meeting): Rejection of the USSR draft resolution; rejection of the United States draft resolution; rejection of the Swedish draft resolution*

At the 827th meeting on 15 July 1958, which was convened as an emergency meeting at the request of the United States, the representative of the United States declared that the territorial integrity of Lebanon was increasingly threatened by insurrection stimulated and assisted from outside and that in these circumstances the President of Lebanon had called, with the unanimous

authorization of the Lebanese Government, for the help of the Government of the United States so as to preserve Lebanon's integrity and independence. He wished the Security Council to be officially advised of this fact. The United States had responded positively to this request in the light of the need for immediate action. The presence of United States forces was designed for the sole purpose of helping the Government of Lebanon in its efforts to stabilize the situation brought on by the threats from outside, and they would remain in Lebanon only until the United Nations itself was able to assume the necessary responsibilities for ensuring the continued independence of Lebanon.<sup>264</sup>

The Secretary-General gave the Council an account of his activities under the mandate given to him in the resolution of 11 June 1958.<sup>265</sup>

The representative of Lebanon\* stated that the situation in Lebanon had continuously deteriorated and that the Lebanese Government asked the Security Council to take urgently measures more effective than those it had already taken that would prevent the entrance of any material or armed men into Lebanon from outside.<sup>266</sup>

The representative of the USSR, contending that the dispatch of United States troops to Lebanon constituted an act of aggression against the peoples of the Arab world and a gross intervention in the domestic affairs of the States of that area,<sup>267</sup> submitted a draft resolution<sup>268</sup> which was resubmitted in revised form at the 831st meeting on 17 July.

On 16 July, the United Nations Observation Group in Lebanon submitted its first interim report,<sup>269</sup> and on 17 July, its second interim report.<sup>270</sup>

At the 829th meeting on 16 July 1958, the representative of the United States submitted a draft resolution<sup>271</sup> which was resubmitted in revised form at the 831st meeting on 17 July.

At the 831st meeting on 17 July 1958, the Security Council had before it a provisional agenda which read:

“... ”

“2. Letter dated 22 May 1958 from the representative of Lebanon addressed to the President of the Security Council concerning: ‘Complaint by Lebanon in respect of a situation arising from the intervention of the United Arab Republic in the

<sup>264</sup> 827th meeting (PV): pp. 21-22, 26. For the discussion relating to the applicability of Article 51 to the situation arising from the request of the Government of Lebanon and the dispatch of the United States forces, see chapter XI, part IV, Case 4.

<sup>265</sup> 827th meeting (PV): pp. 32-35. See chapter I, part IV, footnote 28 and chapter V, part I, Case 1.

<sup>266</sup> 827th meeting (PV): pp. 42-45.

<sup>267</sup> 827th meeting (PV): p. 56.

<sup>268</sup> 827th meeting (PV): p. 61, S/4047 and Corr.1.

<sup>269</sup> S/4051.

<sup>270</sup> S/4052.

<sup>271</sup> S/4050 and Corr.1.

<sup>257</sup> 824th meeting: para. 100.

<sup>258</sup> 825th meeting: para. 82.

<sup>259</sup> S/4023, O.R., 13th year, Suppl. for Apr.-June 1958, p. 47.

<sup>260</sup> S/4029, O.R., 13th year, Suppl. for Apr.-June 1958, pp. 70-74.

<sup>261</sup> S/4038 and Corr.1, O.R., 13th year, Suppl. for Apr.-June 1958, pp. 119-121.

<sup>262</sup> S/4040 and Corr.1 and Add.1.

<sup>263</sup> S/4043.

internal affairs of Lebanon, the continuance of which is likely to endanger the maintenance of international peace and security' (S/4007)

"3. Letter dated 17 July 1958 from the representative of Jordan addressed to the President of the Security Council concerning: 'Complaint by the Hashemite Kingdom of Jordan of interference in its domestic affairs by the United Arab Republic' (S/4053)"

The Security Council included both items in the agenda and agreed that after the statement on the Jordanian complaint had been concluded, it should proceed to consider the complaints submitted by Lebanon and Jordan simultaneously.<sup>272</sup>

After the adoption of the agenda,<sup>273</sup> the President (Colombia) invited the representatives of Jordan, Lebanon and the United Arab Republic to participate in the discussion.<sup>274</sup>

The representative of Jordan \* contended that, faced with a threat to its integrity and independence through imminent foreign armed aggression and an attempt by the United Arab Republic to create internal disorder and to overthrow the existing regime, the Jordan Government, with the approval of the King, and basing itself upon the unanimous decision of the Jordan National Assembly and in accordance with the provisions of Article 51 of the Charter,<sup>275</sup> had requested the Governments of the United Kingdom and the United States to come to its immediate help. In response to this request, British troops had begun landing on Jordanian territory.<sup>276</sup>

The representative of the United Kingdom stated that British forces were in Jordan only for the purpose of helping the King and the Government to preserve the political independence and territorial integrity of the country. If arrangements could be made by the Security Council to protect the lawful Government of Jordan from external threat and so maintain peace and security, the action which the United Kingdom Government had felt obliged to take would be brought to an end.<sup>277</sup>

The preamble of the USSR revised draft resolution<sup>278</sup> would have had the Security Council recognize that the introduction of United States armed force within the confines of Lebanon and the introduction of United Kingdom armed forces into Jordan constituted gross intervention in the domestic affairs of the peoples of the Arab countries and were consequently contrary to the purposes and principles of the United Nations as set

forth in its Charter and, in particular, in Article 2 (7) which prohibited intervention in matters which were essentially within the domestic jurisdiction of any State; consider that the actions of the United States and the United Kingdom constituted a serious threat to international peace and security; the operative part would have had the Council call upon the Governments of the United States and the United Kingdom to cease armed intervention in the domestic affairs of the Arab States and to remove their troops from territories of Lebanon and Jordan immediately.

The preamble of the United States revised draft resolution<sup>279</sup> would have had the Security Council recall its resolution of 11 June 1958 establishing an Observation Group "to insure that there is no illegal infiltration of personnel and supply of arms or other material across the Lebanon borders"; commend the efforts of the Secretary-General and note with satisfaction the progress made to date and the encouraging achievements reported by the United Nations Observation Group in Lebanon; recall that the "Essentials of Peace" resolution of the General Assembly of 1 December 1949 called upon States to "refrain from any threats or acts, direct or indirect, aimed at impairing the freedom, independence or integrity of any State, or at fomenting civil strife and subverting the will of the people in any State"; recall that the "Peace through Deeds" resolution of the General Assembly of 18 November 1950 condemned "intervention of a State in the internal affairs of another State for the purpose of changing its legally established government by the threat or use of force" and solemnly reaffirm that "whatever weapons used, any aggression, whether committed openly, or by fomenting civil strife in the interest of a foreign Power, or otherwise, is the gravest of all crimes against peace and security throughout the world"; note the statement of the representative of Lebanon that infiltration of arms and personnel was continuing and the territorial integrity and independence of Lebanon were being threatened, that the Government of Lebanon in the exercise of the right of self-defence had temporarily requested direct assistance of friendly countries, and that the Government of Lebanon requested further assistance from the Security Council to uphold its integrity and independence; note the statement of the representative of the United States regarding the provision of assistance by the United States to the Government at its request to help maintain the territorial and political independence of Lebanon; note further the statement of the United States representative that United States forces would remain in Lebanon "only until the United Nations itself is able to assume the necessary responsibility to ensure the continued independence of Lebanon" or the danger was otherwise terminated; the operative part of the draft resolution would have had the Council: (1) invite the United Nations Observation Group in Lebanon to continue to develop its activities pursuant to the Security Council resolution of 11 June 1958; (2) request the Secretary-General immediately to consult the Government of Lebanon and other Member States as appro-

<sup>272</sup> 831st meeting (PV): pp. 2-6. For the statements on the order of the agenda, see chapter II, part III.C, Case 17.

<sup>273</sup> 831st meeting (PV): p. 6.

<sup>274</sup> 831st meeting (PV): pp. 7-10.

<sup>275</sup> For consideration of the applicability of Article 51 to the request of the Government of Jordan and to the dispatch of the United Kingdom troops, see chapter XI, part IV, Case 5.

<sup>276</sup> 831st meeting (PV): p. 12.

<sup>277</sup> 831st meeting (PV): p. 16.

<sup>278</sup> S/4047 Rev.1.

<sup>279</sup> S/4050/Rev.1.



appropriate with a view to making arrangements for additional measures, including the contribution and use of contingents, as might be necessary to protect the territorial integrity and independence of Lebanon and to ensure that there was no illegal infiltration of personnel or supply of arms or other material across the Lebanese borders; (3) call upon all Governments concerned to co-operate fully in the implementation of this resolution; (4) call for the immediate cessation of all illegal infiltration of personnel or supply of arms or other material across the Lebanese borders, as well as attacks upon the Government of Lebanon by government-controlled radio and other information media calculated to stimulate disorders; (5) request the Secretary-General to report to the Security Council as appropriate.

At the 832nd meeting on 17 July 1958, the representative of Sweden stated that the Swedish Government considered that from a practical point of view it was superfluous and from a political point of view unsuitable for the United Nations observers in Lebanon to perform their functions in the presence of foreign troops.<sup>280</sup> He submitted a draft resolution<sup>281</sup> in the preamble of which the Security Council would have noted the communication from the United States Government regarding its decision to comply with a request of the Government of Lebanon for military assistance; noted further that United States troops had subsequently arrived in Lebanon; recognized that the United Nations, according to the Charter, was not authorized to intervene in matters which were essentially within the domestic intervention of any State; considered that the action taken by the United States Government had substantially altered the conditions under which the Security Council had decided on 11 June 1958 to send observers to Lebanon; in the operative part, the Council would have requested the Secretary-General to suspend the activities of the observers in Lebanon until further notice; and would have decided to keep the item on its agenda.

At the 834th meeting on 18 July 1958, the USSR revised draft resolution was rejected by 1 vote in favour, 8 against, with 2 abstentions.<sup>282</sup>

The United States revised draft resolution was not adopted. There was 9 votes in favour, 1 against, with 1 abstention (the negative vote being that of a permanent member).<sup>283</sup>

The Swedish draft resolution was not adopted. There were 2 votes in favour and 9 against.<sup>284</sup>

At the same meeting, the representative of the United States submitted a draft resolution<sup>285</sup> to have the Security Council decide to call an emergency special session of the General Assembly, as provided in General

Assembly resolution 337 (V), in order to make appropriate recommendations concerning the Lebanon complaint.

On the same day, the representative of the USSR submitted a draft resolution to have the Security Council decide to call an emergency special session of the General Assembly in order to consider the question of the intervention of the United States and of the United Kingdom in Lebanon and Jordan.<sup>286</sup>

*Decision of 22 July 1958 (837th meeting): Rejection of the Japanese draft resolution*

At the 835th meeting on 21 July 1958, a revised draft resolution<sup>287</sup> was introduced by Japan by the terms of which the Security Council would have (1) invited the United Nations Observation Group in Lebanon to continue to develop its activities pursuant to the Security Council resolution of 11 June 1958; (2) requested the Secretary-General to make arrangements forthwith for such measures, in addition to those envisaged by the resolution of 11 June 1958, as he might consider necessary in the light of the present circumstances, with a view to enabling the United Nations to fulfil the general purposes established in that resolution, and which would, in accordance with the Charter, serve to ensure the territorial integrity and political independence of Lebanon, so as to make possible the withdrawal of United States forces from Lebanon; (3) requested the Secretary-General to report to the Security Council on the arrangements made; and (4) called upon the Governments concerned to co-operate fully in the implementation of this resolution.

The representative of Japan pointed out that it was not the intention of operative paragraph 2 of the draft resolution to empower the Secretary-General to create a United Nations emergency force in Lebanon, nor to create a type of United Nations force such was stationed in Korea, nor to create a police force of any kind. The draft resolution related only to Lebanon; the complaint of Jordan, in the view of his delegation, should receive careful consideration from the Council.<sup>288</sup>

The representative of the United Kingdom stated that the United Kingdom Government had concluded from the course of the debate on the Lebanese item that there was no immediate prospect of agreement on the necessary measures in Jordan. He therefore proposed, as a first step, to explore urgently with the Secretary-General the possibility of some form of effective action by the United Nations. This would be done in consultation with the Government of Jordan and with other Governments concerned. The object of these consultations would be to work out a proposal under which assistance could be given by the United Nations to the Government of Jordan to ensure the preservation of its territorial integrity and political independence.<sup>289</sup>

<sup>280</sup> 832nd meeting (PV): p. 11.

<sup>281</sup> S/4054.

<sup>282</sup> 834th meeting (PV): p. 46.

<sup>283</sup> 834th meeting (PV): p. 46.

<sup>284</sup> 834th meeting (PV): p. 46.

<sup>285</sup> S/4056. For the discussion of this draft resolution as well as the USSR draft resolution, see chapter VI, part I.B., Case 4.

<sup>286</sup> S/4057.

<sup>287</sup> S/4055.

<sup>288</sup> 835th meeting (PV): pp. 6-8.

<sup>289</sup> 835th meeting (PV): p. 16.

At the same meeting, Japan revised its draft resolution<sup>290</sup> to omit operative paragraph 1.

At the 836th meeting on 22 July 1958, the representative of the USSR submitted the following amendments<sup>291</sup> to the Japanese revised draft resolution: (1) to restore operative paragraph 1; (2) to redraft paragraph 2 so that the Security Council would request the Secretary-General to carry out, in addition to measures envisaged by the resolution of 11 June 1958, the plan submitted by the United Nations Observation Group in its second report, with a view to enabling the United Nations to fulfil the general purposes established in that resolution, which would, in accordance with the Charter, serve to ensure the territorial integrity and political independence to Lebanon; (3) to add a new paragraph 3 according to which the Security Council, considering that the landing of United States troops in Lebanon constituted intervention in the domestic affairs of that country and was therefore contrary to the purpose and principles of the United Nations, would call upon the United States of America to withdraw its armed forces from Lebanon immediately; (4) to renumber paragraph 2 of the Japanese revised draft resolution paragraph 4 and to add at the end of the paragraph the words "not later than 30 July 1958"; (5) to renumber paragraph 3 of the Japanese revised draft resolution paragraph 5.

At the 837th meeting on 22 July 1958, the USSR amendments to the Japanese revised draft resolution were rejected by 1 vote in favour, 8 against, with 2 abstentions.<sup>292</sup>

The Japanese revised draft resolution was not adopted. There were 10 votes in favour, 1 against (the negative vote being that of a permanent member).<sup>293</sup>

*Decision of 22 July 1958 (837th meeting): Statement by the President*

Following these votes, the Secretary-General made the following statement:<sup>294</sup>

"The Security Council has just failed to take additional action in the grave emergency facing us. However, the responsibility of the United Nations to make all efforts to live up to the purposes and principles of the Charter remains.

"The Council now has before it two proposals for the calling of an emergency special session of the General Assembly. I cannot anticipate its decision on those proposals. However, time is of the essence, and whatever the outcome of the further consideration in this Council there is need for practical steps to be taken without any delay. That is the background against which I would like to make the following declaration.

"In a statement before this Council on 31 October 1956, I said that the discretion and impartiality imposed on the Secretary-General by the character of his immediate task must not degenerate into a policy of expediency.

"On a later occasion—it was 26 September 1957—I said in a statement before the General Assembly that I believed it to be the duty of the Secretary-General 'to use his office and, indeed, the machinery of the Organization to its utmost capacity and to the full extent permitted at each stage by practical circumstances'. (A/PV.690, pp. 31-35) I added that I believed that it is in keeping with the philosophy of the Charter that the Secretary-General also should be expected to act without any guidance from the Assembly or the Security Council should this appear to him necessary towards helping to fill any vacuum that may appear in the systems which the Charter and traditional diplomacy provide for the safeguarding of peace and security.

"It is my feeling that, under the circumstances, what I stated in those two contexts, on 31 October 1956 and 26 September 1957, now has full application.

"I am sure that I will be acting in accordance with the wishes of the members of the Council if I, therefore, use all opportunities offered to the Secretary-General, within the limits set by the Charter and towards developing the United Nations effort, so as to help to prevent a further deterioration of the situation in the Middle East and to assist in finding a road away from the dangerous point at which we now find ourselves.

"First of all—the continued operation of the United Nations Observation Group in Lebanon being acceptable to all members of the Council—this will mean the further development of the United Nations Observation Group in Lebanon so as to give it all the significance it can have, consistent with its basic character as determined by the Security Council in its resolution (S/4023) of 11 June 1958 and the purposes and principles of the Charter.

"The Council will excuse me for not being able to spell out at this moment what it may mean beyond that. However, I am certain that what I may find it possible to do, acting under the provisions of the Charter and solely for the purposes of the Charter, and guided by the views expressed around this table to the extent that they have a direct bearing on the activities of the Secretary-General, will be recognized by you as being in the best interests of our Organization and, therefore, of the cause of peace.

"The Security Council would, of course, be kept fully informed on the steps taken. Were you to disapprove of the way these intentions were to be translated by me into practical steps, I would, of course, accept the consequences of your judgement."

The President (Colombia), before proposing the

<sup>290</sup> S/4055/Rev.1.

<sup>291</sup> S/4063.

<sup>292</sup> 837th meeting (PV): p. 6.

<sup>293</sup> 837th meeting (PV): pp. 6-10.

<sup>294</sup> 837th meeting (PV): pp. 11-12.

adjournment of the Council, made the following statement:<sup>295</sup>

“At this point of our debate, the President of the Security Council considers it his duty to make a short statement in connexion with a motion which will be presented at the conclusion of the statement.

“The Security Council must consider four fundamental points which are all of the greatest importance. First of all, we must bear in mind the statement we have just heard from the Secretary-General of the United Nations in which he establishes that the United Nations cannot remain passive in the face of such an emergency. It cannot remain a mere spectator. The United Nations must pursue and continue to pursue all the possibilities which the Charter of the United Nations offers and which are set forth in the resolution of the Security Council adopted on 11 June 1958 to preserve and strengthen peace in the Middle East.

“It has already been shown that the steps previously taken by the Secretary-General of the United Nations in full conformity with the Charter and with the authorization contained in the aforementioned resolution brought certain positive results which all the members of the Security Council as well as the interested parties to this conflict have accepted with gratitude as important and opportune.

“There is another factor which the Security Council must bear in mind. It is well known by public opinion that the Parliament of Lebanon is to elect a new President at the end of this week. The election of a new President, who might be the result of a patriotic agreement between the Government party of Lebanon and the Opposition, would certainly clarify to a great extent this very difficult and complex situation. We cannot prejudge the result of that election. We know that the constituent Assembly will initiate its work on 24 July.

“All of these circumstances would seem to indicate that the Security Council must, under no circumstances, close the door to a compromise solution which would remove the causes of this situation which have brought so much agitation to the Middle East.

“There is a third and most important point which we must bear in mind at this time. It is very important, and perhaps even more important than the points that I have already referred to. The President of the Council of Ministers of the Soviet Union has already invited the Heads of State of the United States of America, the United Kingdom, France, and India to meet with him and with the Secretary-General of the United Nations, as soon as possible, in a conference of the highest importance which would seek a solution that could be recommended to the Security Council of the United Nations so that we might once and for all put an end to these dramatic differences which are today interrupting the normal life of the Middle East.

“We are aware of only some of the replies from some of the Governments who have been invited to this most important meeting to which I have just referred. The Foreign Minister of the United Kingdom is disposed to take part in such a conference, but within the framework of the United Nations. The Government of the United States of America has made a similar statement, and it is a statement which we consider of the greatest importance. The Foreign Minister of Canada, in the important statement that he made during our meeting of yesterday, has declared that his Government, in view of the recent occurrences in the Middle East, considers that it is opportune to study these problems at such a conference on the highest possible level.

“We are all aware of the fact that other foreign offices are today studying very closely the proposal which has been made by the President of the Council of Ministers of the Soviet Union. While, for obvious reasons, they have not all been invited to such a meeting, they certainly have a duty to their peoples and to the United Nations to express their opinion in connexion with the aforementioned invitation of the Soviet Union.

“There is another factor of the very greatest importance. The delegation of the United States of America and the delegation of the Soviet Union have, for different reasons, presented similar proposals to the Security Council. These proposals call for the convening of a special emergency session of the General Assembly of the United Nations so that the General Assembly might consider the problems of the Middle East.

“This statement, which I have tried to make as brief as possible, will surely demonstrate to one and all that, first of all, the United Nations must continue to act effectively in that particular part of the world which is today threatening the peace of the whole world. Secondly, it points out that all the foreign offices of the world are certainly considering all these problems and all the possible solutions which might help us. You must excuse me if I become a little hard, but we cannot pass over in silence or fail to consider any one of the possible solutions which might be suggested.

“It is for these reasons that I, as President of the Security Council of the United Nations, have spoken to you gentlemen. In speaking to you I am trying to reach all of the peoples of the world, and especially the interested parties in this conflict in the Middle East, in the hope that they will do absolutely nothing and take absolutely no steps to worsen the already complex situation which exists in that most important part of the world.”

The President's proposal to adjourn was adopted by 10 votes in favour and 1 against.<sup>296</sup>

On 30 July 1958, the United Nations Observation

<sup>295</sup> 837th meeting (PV): pp. 13-20.

<sup>296</sup> 837th meeting (PV): p. 36.

Group in Lebanon submitted a further report<sup>297</sup> to the Security Council through the Secretary-General.

*Decision of 7 August 1958 (838th meeting): To call an emergency special session of the General Assembly*

By letter<sup>298</sup> dated 5 August 1958, the representative of the USSR requested the President of the Security Council to call an immediate emergency meeting of the Council to consider the USSR proposal for the convening of an emergency special session of the General Assembly.

At the 838th meeting on 7 August 1958, the Security Council had before it a revised draft resolution<sup>299</sup> submitted by the United States and a revised draft resolution<sup>300</sup> submitted by the USSR.

The United States revised draft resolution would have provided that the Security Council, having considered the complaints of Lebanon and of the Hashemite Kingdom of Jordan, and taking into account that the lack of unanimity of its permanent members at the 834th and 837th meetings of the Security Council had prevented it from exercising its primary responsibility for the maintenance of international peace and security, would decide to call an emergency special session of the General Assembly, as provided in General Assembly resolution 377 (V).

The USSR revised draft resolution would have provided that the Security Council, having considered the situation in the Near and Middle East resulting from the introduction of United States armed forces into Lebanon and of United Kingdom armed forces into Jordan; taking into account that these actions of the United States and the United Kingdom constituted a threat to international peace and security; noting that the Security Council had proved unable to exercise its primary responsibility for the maintenance of international peace and security; would decide to call an emergency special session of the General Assembly in order to consider the question of the immediate withdrawal of United States troops from Lebanon and of United Kingdom troops from Jordan.

Amendments to the United States revised draft resolution were submitted by the USSR,<sup>301</sup> the United Kingdom,<sup>302</sup> and Panama.<sup>303</sup> The representative of the United States accepted<sup>304</sup> the amendment of Panama to revise the first preambular paragraph of the revised draft resolution to read: "Having considered items 2 and 3 of the agenda (S/Agenda 838)" and the United Kingdom amendment to replace the last paragraph by the text: "Decides to call an emergency special session of the General Assembly".

<sup>297</sup> S/4069.

<sup>298</sup> S/4078.

<sup>299</sup> S/4056/Rev.1.

<sup>300</sup> S/4057/Rev.1.

<sup>301</sup> 838th meeting (PV): pp. 111-115, 131.

<sup>302</sup> 838th meeting (PV): pp. 117-120, 132-135.

<sup>303</sup> 838th meeting (PV): pp. 128-130. For the discussion on these amendments, see chapter VI, part I.B, Case 4.

<sup>304</sup> 838th meeting (PV): pp. 131, 136-138.

The United States revised draft resolution, as amended, was adopted unanimously.<sup>305</sup>

The resolution<sup>306</sup> read:

"The Security Council,

"Having considered items 2 and 3 on its agenda as contained in document S/Agenda/838,

"Taking into account that the lack of unanimity of its permanent members at the 834th and 837th meetings of the Security Council has prevented it from exercising its primary responsibility for the maintenance of international peace and security,

"Decides to call an emergency special session of the General Assembly."

The representative of the USSR stated that in view of the result of the vote he would not press the USSR revised draft resolution.<sup>307</sup>

The representative of Japan pointed out that the discussion of the complaint of Jordan had not been exhausted. From a procedural viewpoint, therefore, the status of the question of Jordan was not the same as that of the question of Lebanon. Nevertheless, he accepted the amended United States revised draft resolution with the understanding that this should not constitute a precedent for the future.<sup>308</sup>

On 14 August 1958, the United Nations Observation Group in Lebanon submitted to the Security Council, through the Secretary-General, its third report.<sup>309</sup>

On 29 September 1958, the United Nations Observation Group in Lebanon submitted to the Security Council, through the Secretary-General, its fourth report.<sup>310</sup>

*Decision of 25 November 1958 (840th meeting): Deletion of complaint of Lebanon from the agenda*

In a letter<sup>311</sup> dated 16 November 1958, addressed to the President of the Security Council, the Minister for Foreign Affairs of Lebanon stated that the Security Council would be pleased to learn that "cordial and close relations between Lebanon and the United Arab Republic have resumed their usual course" and that the Lebanese Government intended in the future to strengthen its co-operation with the United Arab Republic and other Arab States still further. For this reason the Lebanese Government requested the Security Council to delete from the list of matters before it the Lebanese complaint submitted to the Council on 22 May 1958.

On 17 September 1958 the United Nations Observation Group in Lebanon submitted to the Security

<sup>305</sup> 838th meeting (PV): pp. 139-140.

<sup>306</sup> S/4083.

<sup>307</sup> 838th meeting (PV): pp. 139-140.

<sup>308</sup> 838th meeting (PV): pp. 139-140.

<sup>309</sup> S/4085.

<sup>310</sup> S/4100.

<sup>311</sup> S/4113.

Council, through the Secretary-General, its fifth report.<sup>312</sup> In this report it was stated that the Group had come to the conclusion that its task under the resolution of 11 June 1958 might be regarded as completed and that it was of the opinion, and accordingly submitted its recommendation, that the withdrawal of the United Nations Observation Group in Lebanon should be undertaken.

In a letter<sup>313</sup> dated 17 November 1958 addressed to the President of the Security Council, the Secretary-General stated that in view of the statement of the Government of Lebanon and the recommendation of the Observation Group in Lebanon, he had immediately instructed the Group to present, in consultation with the Government of Lebanon, a detailed plan for the withdrawal. He had taken this step, the Secretary-General stated further, under the authorization given to the Secretary-General in the Security Council resolution of 11 June 1958 to take the necessary steps for the implementation of the Security Council's decision. The instruction given to the Observation Group implied that he considered the task of the Group as completed and that his remaining duty under the resolution thus covered only the necessary measures for the liquidation of the operation.

On 21 November 1958 the Secretary-General submitted to the Security Council a report<sup>314</sup> on the plan for the withdrawal of the United Nations Observation Group in Lebanon.

At the 840th meeting of the Security Council on 25 November 1958, after the Council had concluded its consideration of the item on its agenda for this meeting,<sup>315</sup> the President (Panama) referred to the letter

addressed to him on 16 November 1958 by the Minister for Foreign Affairs of Lebanon; to the fifth report of the United Nations Observation Group in Lebanon; and to the letter addressed to him by the Secretary-General on 17 November 1958. He stated that in view of the statement of the Government of Lebanon and the recommendation of the United Nations Observation Group in Lebanon, he had engaged in consultation with the members of the Council who appeared to agree to the deletion from the list of matters of which the Council was seized of the complaint submitted on 22 May 1958 and to the liquidation of the operation of the United Nations Observation Group in Lebanon. Accordingly, in the absence of any objection, the President continued, he would place on the record that the Council had agreed to delete from the list of matters of which it was seized the complaint submitted to it by the Government of Lebanon on 22 May 1958, with the understanding that the Secretary-General would inform the General Assembly under his mandate<sup>316</sup> contained in the resolution of 21 August 1958.<sup>317</sup>

In the absence of any objection, it was so decided.<sup>318</sup>

<sup>312</sup> In Section II of resolution 1237 (ES-III) the General Assembly requested the Secretary-General "to make forthwith, in consultation with the Governments concerned and in accordance with the Charter, and bearing in mind part I of this resolution, such practical arrangements as would adequately help in upholding the Purposes and Principles of the Charter in relation to Lebanon and Jordan in the present circumstances, and thereby facilitate the early withdrawal of the foreign troops from the two countries".

<sup>317</sup> 840th meeting (PV) : pp. 12-13.

<sup>318</sup> 840th meeting (PV) : p. 13. By letter dated 25 November 1958 (A/4008), the Secretary-General informed the President of the General Assembly that the Security Council, at its 840th meeting on 25 November 1958, had decided to delete from the list of matters of which the Council was seized the complaint submitted on 22 May 1958 by the Government of Lebanon.

<sup>312</sup> S/4114.

<sup>313</sup> S/4115.

<sup>314</sup> S/4116.

<sup>315</sup> The date of election to fill a vacancy in the International Court of Justice.

**Chapter IX**

**DECISIONS IN THE EXERCISE OF OTHER FUNCTIONS  
AND POWERS**

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## **NOTE**

Decisions of the Security Council relative to recommendations to the General Assembly regarding the admission of new Members have been dealt with in chapter VII, and the decisions on questions considered under the Council's responsibility for the maintenance of international peace and security in chapter VIII. During the period under review, no decision has been taken by the Council in the exercise of other functions and powers under the Charter.<sup>1</sup>

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<sup>1</sup> With the exception of decisions concerning the relations of the Security Council with other organs of the United Nations, arising from Articles 12, 93(2) and 97 of the Charter. For these decisions, see chapter VI.

**Chapter X**

**CONSIDERATION OF THE PROVISIONS OF CHAPTER VI  
OF THE CHARTER**



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## INTRODUCTORY NOTE

As in the previous volumes of the *Repertoire*, the criterion for inclusion of material in the present chapter is the occurrence of discussion in the Council directed to the text of Articles 33-38 or Chapter VI of the Charter. Thus, chapter X does not cover all the activities of the Council in the pacific settlement of disputes, for the debates preceding the major decisions of the Council in this field have dealt almost exclusively with the actual issues before the Council and the relative merits of measures proposed without discussion regarding the juridical problem of their relation to the provisions of the Charter. For a guide to the decisions of the Council in the pacific settlement of disputes, the reader should turn to the appropriate sub-headings of the Analytical Table of Measures adopted by the Security Council.<sup>1</sup>

The material in this chapter constitutes only part of the material relevant to the examination of the operation of the Council under Chapter VI of the Charter, since the procedures of the Council reviewed in chapters I-VI, where they relate to the consideration of disputes and situations, would fall to be regarded as integral to the application of Chapter VI of the Charter. Chapter X is limited to presenting the instances of deliberate consideration by the Council of the relation of its proceedings or of measures proposed to the text of Chapter VI.

The case histories on each question require to be examined within the context of the chain of proceedings on the question presented in chapter VIII.

<sup>1</sup> Chapter VIII, part I.

### Chapter VI of the Charter. Pacific Settlement of Disputes

#### Article 33

1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

2. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means.

#### Article 34

The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.

#### Article 35

1. Any Member of the United Nations may bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Security Council or of the General Assembly.

2. A state which is not a Member of the United Nations may bring to the attention of the Security Council or of the General Assembly any dispute to which it is a party if it accepts in advance, for the purposes of the dispute, the obligations of pacific settlement provided in the present Charter.

3. The proceedings of the General Assembly in respect of matters brought to its attention under this Article will be subject to the provisions of Articles 11 and 12.

#### Article 36

1. The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or of a situation of like nature, recommend appropriate procedures or methods of adjustment.

2. The Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties.

3. In making recommendations under this Article the Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court.

#### Article 37

1. Should the parties to a dispute of the nature referred to in Article 33 fail to settle it by the means indicated in that Article, they shall refer it to the Security Council.

2. If the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate.

#### Article 38

Without prejudice to the provisions of Articles 33 to 37, the Security Council may, if all the parties to any dispute so request, make recommendations to the parties with a view to a pacific settlement of the dispute.

### Part I

#### CONSIDERATION OF THE PROVISIONS OF ARTICLE 33 OF THE CHARTER

##### NOTE

During the period covered by this *Supplement*, the prior efforts to seek a peaceful solution made by States submitting a dispute or a situation to the Security Council have been indicated in the initial communications, though Article 33 has not been expressly cited in any of them.<sup>2</sup> In statements before the Council, the States concerned have drawn attention to the stage reached in efforts toward a settlement as evidence of the necessity for taking or not taking action under Chapter VI. The contentions advanced have centred around :

<sup>2</sup> Afghanistan, Egypt, Indonesia, Iran, Iraq, Jordan, Lebanon, Libya, Pakistan, Saudi Arabia, Syria, Thailand and Yemen in their letter dated 13 June 1956, S/3609, and the explanatory memorandum to their letter dated 12 April 1956, S/3589 and Add.1 (submitted together with Burma, Ceylon, India and the Philippines) [O.R., 11th year, Suppl. for Apr.-June 1956, pp. 74-75 and 25-27], in connexion with the question of Algeria; France and the United Kingdom in their letters dated 23 September 1956, S/3654, and 12 September 1956, S/3645 [O.R., 11th year, Suppl. for July-Sept. 1956, pp. 28-29 and 47] in connexion with the Suez Canal question; Egypt in its letters dated 24 September 1956, S/3656, and 17 September 1956, S/3650 [O.R., 11th year, Suppl. for July-Sept. 1956, pp. 48 and 38-41] in connexion with the Suez Canal question; Tunisia, in explanatory memorandum to its letter dated 13 February 1958, S/3952, and France, in explanatory memorandum to its letter dated 14 February 1958, S/3954 [O.R., 13th year, Suppl. for Jan.-Mar. 1958, pp. 13-14 and 15-16] in connexion with Tunisian question (I); Tunisia in explanatory memorandum to its letter dated 29 May 1958, S/4013, and France in explanatory memorandum to its letter dated 29 May 1958, S/4015 [O.R., 13th year, Suppl. for Apr.-June 1958, pp. 37-39 and 42-44] in connexion with Tunisian question (II); Sudan in a communication attached to its letter dated 20 February 1958, S/3963 [O.R., 13th year, Suppl. for Jan.-Mar. 1958, pp. 21-22] in connexion with the Sudanese question.

(1) The allegation of refusal to enter into or resume negotiations.<sup>3</sup>

(2) The allegation of the failure to reach a satisfactory settlement through negotiation.<sup>4</sup>

(3) The allegation of refusal of proper recourse to procedures of settlement stipulated by special agreement binding on the parties.<sup>5</sup>

(4) The allegation that the emergence of a threat to the peace precluded further recourse to the means of settlement prescribed by Article 33.<sup>6</sup> In one instance, the Council three times adjourned its initial consideration of the complaint, at the request or with the concurrence of the complaining State, to permit recourse to regional machinery established with the participation of that State.<sup>7</sup> In another instance, the Council, after learning that the parties had accepted a tender of good offices made by two of its permanent members, adjourned to permit the parties to reach agreement on the means of resolving difficulties which they had submitted to the Council.<sup>8</sup>

The case histories in part I of the present chapter throw light on the Council's view of the obligation of the

<sup>3</sup> See Case 2 (letter of 20 February 1958 from the representative of Sudan).

<sup>4</sup> See Case 1 (Tunisian question).

<sup>5</sup> See Case 2 (letter of 20 February 1958 from the representative of Sudan) and Case 3 (complaint of Lebanon).

<sup>6</sup> See Case 1 (Tunisian question) and Case 2 (letter of 20 February 1958 from the representative of Sudan).

<sup>7</sup> See Case 3 (complaint of Lebanon).

<sup>8</sup> See Case 1 (Tunisian question).

parties under Article 33, and on the bearing which, in varying contexts, that Article has on the Council's discharge of its responsibilities at the stage of initial consideration of a complaint.<sup>9</sup> In the period under review, consideration of the obligation of the parties to choose peaceful means of settlement of their difficulties has taken place chiefly in a context of endeavour by the Council to encourage the parties to negotiate rather than a context of compliance with a prior condition for recourse to the Council. The Council has on several occasions given effect to its views on this aspect of the procedure for the settlement of controversies in decisions to adjourn following statements by members of the Council indicating a consensus of views concerning the course to be followed. This stress on the obligation of the parties has been accompanied at the stage of initial consideration by informal admonition to them not to increase their difficulties by prejudicial action,<sup>10</sup> and, on several occasions, by an indication of the Council's continuing concern with the matter either in explicit presidential statement of the retention of the item on the Council's agenda<sup>11</sup> or in a decision to resume consideration of the matter at a specific date.<sup>12</sup>

Reference should also be made to the observations in part IV of this chapter regarding the encouragement by the Council of negotiations between the parties and the steps taken by the Council to assist them in reaching agreement on means of overcoming impediments to the operation of previously agreed procedures for dealing with the matters in dispute. In the Palestine and India-Pakistan questions, for example, the Council requested the good offices of the Secretary-General in the one case, and of the President of the Council in the other, for this purpose.

#### CASE 1.<sup>13</sup> THE TUNISIAN QUESTION (I) AND (II): In connexion with decisions to adjourn

[Note: The Council adjourned after a discussion in which the view was expressed that this would promote

<sup>9</sup> In some instances, when the matter before the Council has not been new to its agenda, consideration of the obligation of the parties to make use of arrangements for the pacific settlement of disputes which they had themselves established has also figured extensively in the Council's discussion. In one instance of that kind, there have been observations on the relation of the obligation of prior resort to the machinery of settlement established by the parties and the right of resort to the Council conferred by Article 35(1). See the introductory note to part IV and see also Case 7.

<sup>10</sup> See Cases 1 and 2.

<sup>11</sup> See Case 2.

<sup>12</sup> See Cases 1 and 3.

<sup>13</sup> For texts of relevant statements, see:

811th meeting: USSR (President), para. 44; France, para. 49; Japan, paras. 52-53; Sweden, para. 14; Tunisia\*, para. 48; United Kingdom, paras. 10-12; United States, paras. 6-9;

819th meeting: France, paras. 92-93; Tunisia\*, paras. 14, 17, 63-66;

820th meeting: France, para. 55; United Kingdom, paras. 95-97; United States, paras. 99-103.

821st meeting: France, paras. 37-51.

negotiation between the parties, who had accepted a tender of good offices made by two members of the Council, thus indicating their intention to settle their problems by peaceful means of their own choice in accordance with Article 33. Following a renewal of the complaints, the Council again adjourned to afford the parties a further opportunity to settle their difficulties by direct negotiations.]

At the 811th meeting on 18 February 1958, after the Council had included in its agenda cross-complaints by Tunisia and France, the representative of the United States announced that the tender of good offices made by his Government, in conjunction with that of the United Kingdom, to the Governments of France and Tunisia had been accepted. The responsibility for a peaceful solution of the differences outstanding between France and Tunisia lay with those countries under Article 33 of the Charter. Their acceptance of the tender of good offices was an indication of their desire to settle peacefully by means of their own choice, as suggested in Article 33, the differences they had submitted to the Council.

The representative of the United Kingdom was sure the Council would agree that the tender of good offices and the acceptance by the Governments of France and Tunisia were in full accord with the spirit of Article 33 of the Charter, which enjoined Members of the United Nations to seek a solution of their differences by peaceful means of their own choice, using, where appropriate, the help of friends.

The representative of Sweden suggested adjournment to allow the discussions taking place within the framework of the offer of good offices with a view to arriving at an amicable settlement, to proceed in an atmosphere conducive to a successful outcome.

The President, speaking as the representative of the USSR, noted that the parties' acceptance of the offer of "mediation" was in accord with Article 33 of the Charter.

The representative of Tunisia\* confirmed that his Government had welcomed the offer of good offices, but expressed a preference for adjournment to a specific date and reserved the right to request an emergency meeting of the Council, fearing that circumstances beyond his Government's control might render the good offices ineffectual.

The representative of France declared that he had thought no meeting of the Council to be necessary in the circumstances and saw no point in making any reservations regarding the conditions of adjournment.

Upon the proposal of the representative of Japan under rule 33(2) of the provisional rules of procedure, the Council then adjourned.

At the 819th meeting on 2 June 1958, the Council heard further cross-complaints by the representatives of Tunisia\* and France concerning incidents occurring since the earlier consideration of the case by the Council.

At the same meeting, the representative of Tunisia informed the Council that on 15 March the Good Offices

Mission had proposed to his Government a draft compromise agreement on the procedure for the evacuation of the French troops in Tunisia. This had been accepted by his Government on the same day and was to have been approved by the French Government on 14 April. However, a governmental crisis in France, following acceptance of the draft compromise agreement by the French Government, had delayed implementation of the agreement and resulted in suspension of the Good Offices Mission. In the period following, French forces in Tunisia had failed to respect the security regulations which Tunisia had made concerning them on 8 February 1958. The Government of Tunisia had tried every method of reaching an amicable agreement on the liberation of its territory from the illegal presence of French troops which were continually attacking it. It had tried direct negotiation, but without success; it had accepted the Good Offices Mission, and had shown itself as patient and as conciliatory as could be expected. It had no alternative but to appeal to the Security Council as the body responsible for the maintenance of international peace and security to take, in accordance with Article 39 of the Charter, all appropriate measures provided for in Articles 40 and 41 and subsequent Articles to assist it to obtain the withdrawal of the French troops stationed in Tunisia against its wishes. The representative of Tunisia also requested the Council to take provisional security measures under Article 40 of the Charter relating principally to compliance by the French troops in Tunisia with the preventive security measures of 8 February.

The representative of France contested the version of the facts presented by the representative of Tunisia and attributed responsibility for the incidents complained of to the Tunisian Government. He regarded neither the Good Offices Mission nor the negotiations between the two Governments and the compromise agreement of 15 March 1958 concerning the procedure for the evacuation of the French troops from Tunisia at an end.

“I must make it clear that we cannot accept this point of view, which is at variance with the very definition of good offices and also with the facts. The basic purpose of this procedure is not to find a direct solution of the dispute in which it is being employed: that is precisely what distinguishes it from mediation or arbitration, in which a settlement is either proposed to, or imposed upon, the parties to the dispute. The function of those who accept a good offices mission is no less important, but its scope is more restricted: it consists in finding an area of agreement as a basis for the resumption of direct negotiations between the countries concerned. That appears to me to be the manner in which the United States and the United Kingdom have always interpreted the good offices procedure; I trust that their representatives in the Security Council will correct me if I am mistaken.”

He added that it had been possible in the last few days to resume direct negotiations between Paris and Tunis which were still under way despite the tension between the two parties.

At the 820th meeting on 2 June 1958, the representative of France requested the Security Council

“... to adjourn after having invited Tunisia to carry on, in conformity with Article 33 of the Charter, the negotiations now in progress with France and to restore immediately within its borders, by a return to the *status quo ante* 15 May, the conditions necessary for a speedy conclusion of those negotiations which will be satisfactory to both countries.”

The representative of the United Kingdom, after observing that it was clear from the statements which the Council had heard that the situation was serious and delicate, added that, despite this, the Governments of France and Tunisia were known to have been in touch with one another recently in an attempt to solve the problems at the root of the incidents of which they were complaining.

“... It seems to me that every opportunity should be given for these confidential exchanges between France and Tunisia to succeed. I think, therefore, that the wise course for the Council to take, apart from any further hearing of the parties, would be not to proceed further with the consideration of the matter at present ...

“... it goes without saying that the Council looks to all concerned on the spot not to disturb the existing arrangements and to exercise the utmost restraint.”

The representative of the United States expressed confidence in the intentions of France and Tunisia to abide by their Charter obligations, particularly those set forth in the preamble and in Articles 1 and 2. The Charter placed a direct responsibility upon all States in the first instance to seek to settle their difficulties by peaceful means through direct negotiations. The United States had always felt that the situation presented to the Council by France and Tunisia was susceptible to such a settlement. The Good Offices Mission had found substantial agreement between the Governments of the two countries on many matters germane to the dispute now before the Council. The continuation of direct negotiation was also encouraging. Nothing should take place that might interrupt such a process of peaceful settlement or prejudice the intentions of the two Governments. This meant that it was important to seek to ensure that whatever happened in the Council in no way impaired the prospect for a satisfactory solution of the outstanding problems between the two countries.

At the 821st meeting on 4 June 1958, the representative of France informed the Council that the Government of France had sent a message to the Government of Tunisia expressing its intention to settle with the latter the outstanding difficulties between the two countries and the conditions for good relations in the future, and that the Government of Tunisia had replied in a co-operative manner. Accordingly, he proposed a two weeks' postponement of the debate to allow these conversations to take place.

In accordance with the stated preference of the representative of Tunisia for a fixed date, the Council decided to adjourn until 18 June.

CASE 2.<sup>14</sup> LETTER DATED 20 FEBRUARY 1958 FROM THE REPRESENTATIVE OF THE SUDAN ADDRESSED TO THE SECRETARY-GENERAL: In connexion with the President's summing up of the opinions of members of the Council

[*Note:* In the consideration of the Sudan complaint, observations were made by all members of the Council concerning the importance of use by the parties of the means of settlement enumerated in Article 33. Emphasis was laid on the availability of the Council to consider the complaint further if negotiations between the parties should fail to resolve the questions outstanding between them.]

At the 812th meeting on 21 February 1958, the Security Council considered the letter of 20 February 1958 from the representative of Sudan concerning "the grave situation existing on the Sudanese-Egyptian border, resulting from the massed concentrations of Egyptian troops moving towards the Sudanese frontiers", which had followed receipt of a demand from the Government of Egypt to the Government of Sudan to hand over to Egypt two areas of Sudanese territory north of latitude 22\*.

The representative of Sudan\* declared that his Government had done everything in its power to avoid bringing the complaint to the United Nations. Within the short time at its disposal, it had exhausted all possibilities of reaching a peaceful and equitable solution. In support of this assertion, he declared that the Government of Egypt had rejected the request made on 18 February by the Government of Sudan to defer discussion of the claims until after the Sudanese elections to be held on 27 February.

The representative of Egypt\* declared that the Government of Sudan had decided to submit the question to the Security Council "before the other peaceful means referred to in the Charter — particularly in Article 33 — had been exhausted". He stressed particularly the provision in Article 33 for "resort to regional agencies or arrangements", which in his view clearly included the League of Arab States. On learning of a memorandum communicated to the Secretary-General of the League of Arab States by the Sudan Minister for Foreign Affairs, the Egyptian Minister for Foreign Affairs had emphasized Egypt's good intentions toward the Sudan. Furthermore, the Secretary-General of the United Nations, who had expressed anxiety concerning the situation, had been informed that the Egyptian Government had adopted towards the Sudanese a "peaceful and good-neighbourly attitude". The representative of Egypt quoted from a communiqué issued by his Government on the very day of the Council's meeting, announcing that "the Egyptian Government decided to postpone the settling of the frontier question till after the Sudanese elections. Negotiations are to begin for the settling of all undecided

questions after the new Sudanese Government is chosen". He expressed confidence that the dispute would be settled between Egypt and Sudan in the tradition of their long-standing friendship.

Following a suspension of the meeting to enable members of the Council to talk the matter over privately, the Council resumed consideration of the matter.

The representative of the United States noted in particular the indications by the representatives of Egypt and Sudan of willingness to settle this matter after the elections of 27 February and the favourable reply made by the Government of Egypt to the Secretary-General's expression of concern and interest. He hoped the parties would seek a peaceful solution of their difficulties, and reminded the Council that by adopting the agenda, it was officially seized of the problem and, if the situation worsened, could always meet again on very short notice.

The representative of Japan regretted that it had been necessary to bring the matter to the attention of the Council at all, welcomed the expressions by the parties of the intention to seek a peaceful solution of their dispute and concluded with a statement of his understanding that the Council remained seized of the matter and could always discuss it if necessary.

The representative of the United Kingdom observed that it was the timing and manner in which the question had been raised that had led the Government of Sudan to come to the Council. The statements made to the Council by the parties of their intention to seek appropriate ways of negotiating a settlement of the dispute seemed to his delegation to meet the essential point in the Sudanese complaint to the Council, which, of course, remained seized of the matter.

The representative of Iraq deplored the failure to settle the difficulties between the parties by negotiation and noted the declarations of the two Governments of their intentions to settle the question peacefully.

The representative of France observed that the declaration made before the Council by the Egyptian representative on behalf of his Government seemed to be substantially what the Sudan requested. "Thus Article 33 of the Charter applies; we have come back to the procedure of negotiation. As we see it, all that is needed at this stage of the discussion is for the Council to take note of the statements made on the subject by the two parties."

The representative of Canada stressed the view of his Government that States should make every effort to settle their difficulties by the means outlined in Article 33 of the Charter. He noted the declarations of the parties, and added that "it is our hope that, because the attention of the Council has been focused on the situation along the Egyptian-Sudanese border, this in itself will also have a reassuring effect and that calm and confidence will prevail on both sides of that border".

The President (USSR), speaking on behalf of his delegation, noted the wish expressed by both sides to settle the frontier dispute by friendly negotiations. He emphasized the Charter requirement that disputed questions be settled by means of negotiation and

<sup>14</sup> For texts of relevant statements, see:

812th meeting: President (USSR), paras. 70-74, 79-81; Canada, paras. 67-69; Egypt\*, paras. 38, 43-47; France, paras. 65-66; Iraq, paras. 62-64; Japan, paras. 56-58; Sudan\*, paras. 5, 30-31; United Kingdom, paras. 59-61; United States, paras. 50-55.

declared that there was no need for intervention by the Security Council at that time, due note having been made of statements by the parties.

All the members of the Council who spoke stressed the obligation of the parties not to permit a deterioration in the interval before negotiations were begun.

Summing up the opinions of members of the Council, the President declared :

“The Security Council has heard the statements of the representatives of the Sudan and Egypt and notes the Egyptian representative's assurances that his Government has decided to postpone the settlement of the frontier question until the elections in the Sudan are over.

“Of course, the question put forward by the Sudan remains before the Council. With this we can end our meeting, bearing in mind that the next meeting, should one prove necessary, will be convened, as usual, on consultation between members of the Security Council and the parties concerned.”

CASE 3.<sup>16</sup> LETTER DATED 22 MAY 1958 FROM THE REPRESENTATIVE OF LEBANON TO THE PRESIDENT OF THE SECURITY COUNCIL CONCERNING “COMPLAINT BY LEBANON IN RESPECT TO A SITUATION ARISING FROM THE INTERVENTION OF THE UNITED ARAB REPUBLIC IN THE INTERNAL AFFAIRS OF LEBANON, THE CONTINUANCE OF WHICH IS LIKELY TO ENDANGER INTERNATIONAL PEACE AND SECURITY”: In connexion with the adjournment of the meetings

[Note : The 818th and 822nd meetings of the Security Council were adjourned in view of submission of an identical complaint by Lebanon to the League of Arab States.]

At the 818th meeting on 27 May 1958, after the adoption of the agenda, the representative of Iraq stated that the League of Arab States was expected to meet on 31 May 1958 to discuss the question on the agenda of the Council. He therefore proposed the adjournment

<sup>16</sup> For texts of relevant statements, see :

818th meeting : President (Canada), para. 17 ; Colombia, para. 27 ; Iraq, para. 8 ; Lebanon, para. 12 ; Panama, para. 34.

of the meeting until 3 June, at which time it would be known whether the question could be resolved outside the Council or not. It was to be understood that the Council should be ready to meet at short notice on the request of the representative of Lebanon.

The representative of Lebanon declared that his Government would welcome the adoption of the proposal made by the representative of Iraq. The Lebanese complaint would thus remain before the Council which would meet to consider it on 3 June if the League of Arab States were to be unsuccessful in dealing with it.

The President (Canada) observed that a request for adjournment motivated by the hope that a peaceful solution might be achieved on a regional basis seemed to fit into the general pattern of United Nations procedures.

The representative of Colombia welcomed adjournment in order to afford two friendly countries opportunity to settle their differences amicably within the system of regional organization to which they belonged. He did so on the understanding that the questions before the Council and the regional organization were the same.

The representative of Panama agreed that the Council should adopt the proposal of the Iraqi representative in order to enable the Arab League to have recourse to such means of pacific settlement as those contemplated in Article 33 of the Charter. It was moreover the duty of the Council under Article 36 to take into account the peaceful means chosen by the parties, in this instance the Pact of the League of Arab States which they had signed in 1945.

The Council decided <sup>18</sup> to adjourn until 3 June 1958. Subsequently the adjournment was extended until 5 June 1958.<sup>17</sup>

At the 822nd meeting on 5 June 1958, the President (China) proposed <sup>18</sup> that the Council adjourn for another twenty-four hours, since the League of Arab States was meeting at that very time on the question raised by Lebanon. The proposal was adopted.<sup>19</sup>

<sup>16</sup> 818th meeting : para. 41.

<sup>17</sup> See letter dated 2 June 1958 from the representative of Lebanon to the President of the Security Council, S/4018 [O.R., 13th year, Suppl. for Apr.-June 1958, p. 44.]

<sup>18</sup> 822nd meeting : para. 1.

<sup>19</sup> 822nd meeting : para. 5.

## Part II

### CONSIDERATION OF THE PROVISIONS OF ARTICLE 34 OF THE CHAPTER

#### NOTE

The three case histories <sup>20</sup> entered in part II of this chapter are those in which issues have arisen relating to

<sup>20</sup> During the consideration at the 783rd and 784th meetings on 20 October 1957 of the inclusion in the agenda of a letter dated 13 August 1957 containing a complaint concerning “the armed aggression” by the United Kingdom against the Imamate of Oman, several members referred to the provisions of Articles 34 and 35. For their statements, see : chapter II, part III.B.1, Case 5.

Article 34 of the Charter. In the proceedings relating to the Palestine question <sup>21</sup> the question raised concerned the propriety of a determination in advance of investigation that continuation of the situation under examination was likely to endanger the maintenance of international peace and security. In connexion with the question of Algeria, in which the initial communication invoked Article 35(1), objections were raised to the adoption of

<sup>21</sup> See Case 5.

the provisional agenda on the grounds that it was not claimed that the situation in Algeria was a threat to "international" peace and security within the meaning of Article 34 of the Charter.<sup>22</sup> In connexion with the question of the situation in Hungary, it was requested in the initial communication that the item be included in the agenda pursuant to the provision of Article 34. Objection was raised to this on the ground that Article 34 empowered the Council to examine exclusively disputes or situations arising in relationships between States.<sup>23</sup>

CASE 4.<sup>24</sup> THE PALESTINE QUESTION: In connexion with a draft resolution to request the Secretary-General to survey, as a matter of urgency, the various aspects of enforcement of and compliance with the four Armistice Agreements and the Council's resolutions under reference, and to arrange for the adoption of measures which he considered would reduce the existing tensions along the Armistice Lines: voted upon and unanimously adopted on 4 April 1956

[Note: Under operative paragraph 1 of the United States draft resolution,<sup>25</sup> the Council was to consider that the situation prevailing between the parties "is such that its continuance is likely to endanger the maintenance of international peace and security". The paragraph was opposed on the grounds that its adoption would force the Council to make a premature determination of the situation in the area without having heard the report of the Secretary-General and the Chief of Staff of the United Nations Truce Supervision Organization. Accordingly, a USSR amendment<sup>26</sup> was introduced to replace the words describing the situation as noted above, by the words "is unsatisfactory". In opposition to the amendment, it was contended that the situation in the area was dangerous and that non-compliance with three unanimous resolutions of the Council constituted a situation which was likely to endanger international peace.]

Operative paragraph 1 of the United States draft resolution read:

"Considers that the situation now prevailing between the parties concerning the enforcement of the armistice agreements and the compliance given to the above-mentioned resolutions of the Council is such that its continuance is likely to endanger the maintenance of international peace and security."

At the 720th meeting on 3 April 1956, the representative of the USSR, referring to the paragraph just quoted, stated:

<sup>22</sup> See Case 4.

<sup>23</sup> See Case 6.

<sup>24</sup> For texts of relevant statements, see: 720th meeting: President (United States), para. 47; USSR, para. 20;

721st meeting: Peru, paras. 66-67; USSR, paras. 43-47;

722nd meeting: Australia, para. 19; United Kingdom, para. 7; Yugoslavia, para. 22.

<sup>25</sup> S/3562, O.R., 11th year, Suppl. for Jan.-Mar. 1956, p. 21.

<sup>26</sup> S/3574, 720th meeting: para. 20.

"... If that paragraph were adopted in the form proposed by the United States delegation it would, in our opinion, force the Security Council to decide, prematurely and without a thorough study, that the situation now prevailing between the parties concerning compliance with the armistice agreements and the Security Council's resolutions is likely to endanger international peace and security. We consider that the Council should first hear the Secretary-General's report on his return from his visit to the countries in the Near East and the report of the Chief of Staff, General Burns: only then should it voice its conclusions about the situation in the area and say whether or not the situation with regard to compliance with the armistice agreements and the Security Council's resolutions is such that it is likely to endanger the maintenance of international peace and security. This is the purpose of our amendment to operative paragraph 1."

The President, speaking as the representative of the United States, replied:

"The second amendment is fallacious because it is clear that failure to comply with three unanimous resolutions of the Security Council is, in the words of the resolution, 'likely' to endanger peace. Surely it is not an exaggeration to say that non-compliance with three unanimous resolutions is likely to endanger peace. It seems none too strong."

At the 721st meeting on 4 April 1956, the representative of the USSR reiterated his views. The representative of Peru, opposing the USSR amendment, observed that the Council, in undertaking conciliation proceedings through a plenipotentiary, did not imply the taking of any measures prescribed under Article 39. Referring to the expression used in the paragraph concerned, he stated:

"... the expression is in fact taken from other articles referring to conciliation. Yet even so I should like to say that the expression — although it is of course used in the United Nations Charter, does not here carry the grave implications it has in Article 39, because the case is different: it is not a breach of the peace, a threat to the peace or an act of aggression. It is a situation whose continuance may possibly — and the United Nations is setting up mediation machinery to ensure that it does not continue — endanger the peace; its continuance would be likely to endanger peace..."

At the 722nd meeting on 4 April 1956, the representative of the United Kingdom declared that the situation in the area was not merely unsatisfactory but dangerous. He felt that the Council, without further evidence, could determine that the continuance of such a situation was likely to endanger the maintenance of international peace and security.

The representative of Australia stated:

"... It is true that these words are taken from a portion of the Charter; they are taken from Article 33... In other words, these words taken from the Charter do serve as the preliminary step, as it were, to conciliation, mediation and negotiation; the draft



resolution as a whole does request the Secretary-General to undertake a mission of investigation and conciliation within the framework of the armistice agreements that have been negotiated and accepted in the past."

The representative of Yugoslavia, in supporting the proposed amendment, observed:

"...this amendment would appear to bring the paragraph into fuller conformity with the spirit of Chapter VI, and more particularly of Article 34, of the Charter. It also coincides broadly with the views of my delegation on the situation in the area under consideration. Moreover, in our opinion this amendment has the advantage of dispelling any possible impression that the appraisal of the situation is being prejudged pending the Secretary-General's mission in the theatre."

At the same meeting, the USSR amendment to the first operative paragraph was rejected by 2 votes in favour and 3 against, with 6 abstentions.<sup>27</sup> The United States draft resolution was adopted unanimously.<sup>28</sup>

**CASE 5.<sup>29</sup> THE QUESTION OF ALGERIA:** In connexion with a request dated 13 June 1956 that the situation in Algeria be considered by the Security Council

[*Note:* During the consideration of inclusion of the item in the agenda, it was urged that the Council was obliged to include the question in the agenda in order to determine, as stipulated in Article 34 of the Charter, whether continuance of the situation in Algeria threatened the maintenance of international peace and security. Objections to inclusion in the agenda were based *inter alia* on the ground that Article 34 concerned only threats to international peace. The provisional agenda was not adopted.]

At the 729th meeting on 26 June 1956, the Security Council had before it a provisional agenda which included a letter<sup>30</sup> dated 13 June 1956 submitted by the representatives of thirteen Member States, requesting under Article 35(1) that the situation in Algeria be considered by the Council as presenting a threat to peace and security.

Objection to inclusion of the item in the agenda was made by the representative of France on the ground that "Algerian affairs are matters essentially within the domestic jurisdiction of France".

On behalf of the Member States which had brought the situation in Algeria to the attention of the Council, the representative of Iran stated that the situation:

<sup>27</sup> 722nd meeting: para. 44.

<sup>28</sup> 722nd meeting: para. 46.

<sup>29</sup> For texts of relevant statements, see:

729th meeting: France, paras. 102-104; Iran, paras. 30, 42, 51-53, 55, 71, 89-90;

730th meeting: Iran, paras. 3, 8-9, 26; USSR, para. 76.

<sup>30</sup> S/3609, O.R., 11th year, Suppl. for Apr.-June 1956, pp. 74-76.

"... is of a nature to give rise to a dispute between nations, and that its continuance is likely to endanger maintenance of international peace and security."

After quoting Articles 35(1) and 34, he further stated:

"No one can deny that far-reaching military operations undertaken by an army of some 400,000 men equipped with modern arms against a population determined to defend its liberty... constitute a situation of the kind envisaged by Articles 34 and 35 of the Charter..."

"This situation has already led to international friction, within the meaning of Article 34 of the Charter, in the sense that thirteen Member States have expressed their serious concern about the unhappy situation now prevailing in Algeria. Could we force these States to remain silent when they ask the Council to examine this situation...?"

After dwelling further on the matter to demonstrate why the situation in Algeria was one on which the Council should act, he contended:

"... The Council... must include this question in its agenda so as to determine, as stipulated in Article 34 of the Charter, if, in its opinion, the continuance of this situation threatens the maintenance of international peace and security. It is quite evident that the Council cannot decide upon this until the question has been included in the agenda."

The representative of France reiterated his opposition to any discussion of "domestic affairs by third parties" and observed:

"... Article 2, paragraph 7, is not the only Article in which the principle of non-intervention is embodied. If we read Chapters VI and VII of the Charter, with particular reference to the competence of the Security Council, we find that under Article 34... the Council's competence is limited to 'any dispute, or any situation which might lead to international friction or give rise to a dispute', a dispute or situation the continuance of which 'is likely to endanger the maintenance of international peace and security'."

He remarked that, in the letter of submission to the Council, it had been claimed that the situation in Algeria was a "threat to peace and security", but "without inserting the qualifying objective 'international' which appears in Chapters VI and VII of the Charter".

He concluded that:

"... Threats to peace and security are not within the purview of this high forum unless they relate to international peace and security..."

At the 730th meeting on 26 June 1956, the representative of Iran contended that:

"... Articles 34 and 35 refer not to a present threat, nor to an imminent threat, but to the possibility of a situation which might endanger the maintenance of international peace and security..."

He added that, in regard to the situation in Algeria, "this possibility already exists, and the Security Council

is called upon to investigate it in accordance with the terms of Articles 34 and 35 of the Charter”.

The representative of the USSR maintained that the Council could not disregard the request made by thirteen States Members of the United Nations :

“... more particularly since these States maintain that there is a threat to peace and security in the area concerned. In order to determine whether or not any such threat to peace exists, the parties must be heard and the matter must be discussed in the Security Council.”

At the same meeting, the provisional agenda was rejected by 2 votes in favour and 7 against, with 2 abstentions.<sup>31</sup>

**CASE 6.<sup>32</sup> THE SITUATION IN HUNGARY :** In connexion with the letter dated 27 October 1956 from the representatives of France, the United Kingdom and the United States to the President of the Security Council concerning the situation in Hungary

[*Note :* The competence of the Security Council was contested on the ground that a situation arising within a country and not affecting its relations with other States did not fall under Article 34 of the Charter.]

By letter <sup>33</sup> dated 27 October 1956, the representatives of France, the United Kingdom and the United States addressed the President :

“... with regard to the situation created by the action of foreign military forces in Hungary in violently repressing the rights of the Hungarian people which are secured by the Treaty of Peace of 10 February 1947 to which the Governments of Hungary and the Allied and Associated Powers are parties.”

“Pursuant to the provisions of Article 34 of the Charter”, they requested the inclusion of an item in the agenda of the Security Council entitled “The situation in Hungary”, and the convening of an urgent meeting of the Council to consider it.

At the 746th meeting on 28 October 1956, the representative of the USSR, in opposing inclusion of the question in the agenda, stated :

“In their proposal for the inclusion of this item in the agenda the three Powers invoke Article 34 of the Charter as grounds for the discussion of this question in the Security Council. But that is entirely unwarrant-

ed. In point of fact, Article 34 of the Charter empowers the Security Council to investigate only disputes or situations of an international character, namely, those arising in relationships between States. Accordingly, any situations arising inside a country and not affecting its relations with other States, as in the present instance, do not fall under Article 34. Both in itself, therefore, and in association with the provisions of Article 2, paragraph 7, of the Charter... and those of Chapter I of the Charter as a whole, the text of Article 34 makes it quite clear that this is the only possible correct interpretation of the question of the Security Council's competence. The United Nations Charter thus leaves no doubt that the Security Council is not competent to examine questions of this nature.”

At the same meeting, the agenda was adopted by 9 votes in favour and 1 against, with 1 abstention.<sup>34</sup>

The representative of the United Kingdom stated that :

“... The use of the armed forces of one country to restrain the peoples of another country in their domestic struggle for political freedom creates a situation fraught with danger to the community of nations, and is therefore a situation of which this Council clearly should take cognizance under Article 34 of the Charter.”

The President, speaking as the representative of France, stated that France had resolved to bring the situation before the Council, because everything had combined to lead it to this decision : legal arguments, factual reasons and moral dictates.

From the legal point of view, there could be no hesitation :

“... Is the situation serious? Is it such as to endanger international peace and security? No one can have any doubt on that score and the matter accordingly comes within the scope of Article 34 of the United Nations Charter.

“For several days now in Hungary, Soviet forces have been engaged in violent combat with the Hungarian people and with some units of the Hungarian army; that fact alone would suffice to bring the question within the competence of the Security Council.”

At the 752nd, 753rd and 754th meetings on 2, 3 and 4 November 1956, the Security Council continued to discuss the situation in Hungary on the basis of information received from its members and from the Government of Hungary.

At the 753rd meeting, the representative of the United States submitted a draft resolution,<sup>35</sup> which, as revised at the 754th meeting, read as follows :

“*The Security Council,*

“*Considering that the United Nations is based on the principle of sovereign equality of all its Members,*

“*Recalling that the enjoyment of human rights and*

<sup>31</sup> 730th meeting : para. 85 ; See also chapter II, Case 5.

<sup>32</sup> For texts of relevant statements, see :

746th meeting : France (President), paras. 86-91 ; USSR, para. 24 ; United Kingdom, paras. 71, 77.

752nd meeting : China, para. 131 ; Cuba, para. 68 ; France, paras. 109-115 ; United States, paras. 59-61 ;

753rd meeting : Australia, paras. 71, 74 ; Belgium, paras. 48-51, 53 ; France, paras. 83-84 ; Peru, paras. 94-96 ; USSR, para. 132 ; United Kingdom, paras. 39-40 ; United States, paras. 19-21 ; Yugoslavia, paras. 32-5, 64 ; 754th meeting : Belgium, paras. 34-35 ; USSR, paras. 53-54 ; United Kingdom, para. 60 ; United States, para. 10.

<sup>33</sup> S/3690, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 100.

<sup>34</sup> 746th meeting : para. 35.

<sup>35</sup> S/3730 and S/3730/Rev.1, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 125-126.

of fundamental freedoms in Hungary was specifically guaranteed by the Peace Treaty between Hungary and the Allied and Associated Powers signed at Paris on 10 February 1947 and that the general principle of these rights and freedoms is affirmed for all peoples in the Charter of the United Nations,

“*Convinced* that present events in Hungary manifest clearly the desire of the Hungarian people to exercise and to enjoy fully their fundamental rights, freedoms and independence,

“*Deploring* the use of Soviet military forces to suppress the efforts of the Hungarian people to reassert their rights,

“*Noting* moreover the declaration by the Government of the Soviet Union of 30 October 1956, of its avowed policy of non-intervention in the internal affairs of other States,

“*Noting* the communication of 1 November 1956 of the Government of Hungary to the Secretary-General regarding demands made by that Government to the Government of the Union of Soviet Socialist Republics for ‘instant and immediate withdrawal of . . . Soviet forces,’<sup>36</sup>

“*Noting* further the communication of 2 November 1956 (S/3726) of the Government of Hungary to the Secretary-General asking the Security Council ‘to instruct the Soviet and Hungarian Governments to

start the negotiations immediately’ on withdrawal of Soviet forces,

“*Anxious* to see the independence and sovereignty of Hungary respected ;

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

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

“3. *Affirms* the right of the Hungarian people to a government responsive to its national aspirations and dedicated to its independence and well-being ;

“4. *Requests* the Secretary-General in consultation with the heads of appropriate specialized agencies to explore on an urgent basis the need of the Hungarian people for food, medicine and other similar supplies and to report to the Security Council as soon as possible ;

“5. *Requests* all Members of the United Nations and invites national and international humanitarian organizations to co-operate in making available such supplies as may be required by the Hungarian people.”

At the 754th meeting, the United States draft resolution failed of adoption. There were 9 votes in favour and 1 against and 1 vote recorded at the 755th meeting as an abstention. The negative vote was that of a permanent member.

<sup>36</sup> A/3251, O.R., General Assembly, Second Emergency Special Session, Annex.

### Part III

## APPLICATION OF THE PROVISIONS OF ARTICLE 35 OF THE CHARTER

### NOTE

During the period under review, sixteen questions<sup>37</sup> relating to the maintenance of international peace and security have been brought to the attention of the Security Council by Members of the United Nations, nine of them by the States directly involved. The relevant data regard-

ing submission will be found in the appended tabulation. The Security Council has continued, at the instance of the parties or of other Members of the United Nations, to consider two questions which had been included in its agenda in 1947 and 1948 respectively, namely, the Palestine question<sup>38</sup> and the India-Pakistan question.

<sup>37</sup> In two instances, the Council included in its agenda items submitted by different Member States arising from the same state of facts ; see Tabulation : entries 2 and 3. In another instance, an item submitted to the Council (see Tabulation : entry 8) was considered in the framework of a question on the agenda of the Council since 1947 (see chapter VIII : The Palestine question : steps for immediate cessation of the military action of Israel in Egypt, pp. 26-29).

<sup>38</sup> During the period under review, the following were considered as sub-items of “The Palestine question” by the Security Council : Letter dated 13 December 1955 from the representative of Syria addressed to the President of the Security Council (707th meeting) ; Status of compliance given to the general armistice agreements and the resolutions of the Security Council adopted during the past year (717th meeting) ; (a) Letter dated 15 October 1956 from the representative of Jordan, addressed to the President of the Security Council, (b) Letter dated 17 October 1956 from the representative of Israel, addressed to the President

of the Security Council, with complaint concerning : Persistent violations by Jordan of the General Armistice Agreement and of the cease-fire pledge made to the Secretary-General on 26 April 1956 (774th meeting) ; Steps for the immediate cessation of the military action of Israel in Egypt (748th meeting) ; Letter dated 13 May 1957 from the permanent representative of Syria to the United Nations, addressed to the President of the Security Council concerning the construction of a bridge in the demilitarized zone established by the General Armistice Agreement between Israel and Syria (S/3827) (780th meeting) ; (a) Letter dated 4 September 1957 from the permanent representative of Jordan addressed to the President of the Security Council (S/3878) ; (b) Letter dated 5 September 1957 from the acting permanent representative of Israel addressed to the President of the Security Council (S/3883) (787th meeting) ; Letter dated 4 December 1958 from the permanent representative of Israel addressed to the President of the Security Council (S/4123) (841st meeting).

## SUBMISSION BY MEMBERS OF THE UNITED NATIONS

In two instances, one of which involved a complaint of "aggression", Members submitting questions to the Security Council indicated in the initial communication that they were acting in accordance with Article 35.<sup>39</sup> In other instances, the Articles invoked have been Article 34,<sup>40</sup> Article 2 (4),<sup>41</sup> Article 40<sup>42</sup> and Article 42.<sup>43</sup> The remaining submissions of questions for consideration by the Council made no reference to Articles of the Charter. In the initial communications or the documents accompanying them, Member States have indicated more or less explicitly the action requested of the Council as well as the nature of the question.

In no instance have Members submitted a question to the Council as a dispute; in seven instances questions were expressly described in initial communications as situations. Some questions have been submitted as involving a danger to peace, or aggression or intervention in domestic affairs or an invasion of sovereignty.<sup>44</sup>

## STATES NOT MEMBERS OF THE UNITED NATIONS

No question was submitted to the Security Council during the period under review by a State not a Member of the United Nations. Article 35,<sup>45</sup> however, was referred

<sup>39</sup> See Tabulation: entries 1 and 13. See also statement by the representative of Israel at the 844th meeting on 15 December 1958, S/PV/844, p. 57, and his further statement at the 845th meeting on 30 January 1959, S/PV/845, p. 33.

<sup>40</sup> See Tabulation: entry 4. See also the statements referred to in the preceding note.

<sup>41</sup> See Tabulation: entry 14.

<sup>42</sup> See Tabulation: entry 16.

<sup>43</sup> See Tabulation: entry 12.

<sup>44</sup> Questions not otherwise described have been listed in the tabulation under situations.

<sup>45</sup> See Tabulation: entry 13.

to in the submission of a question concerning "the armed aggression" against the territorial integrity of the Imamate of Oman.

## PROCEDURAL CONSEQUENCES OF SUBMISSION UNDER ARTICLE 35

Questions have been submitted to the Security Council by means of communications addressed to the President of the Security Council; in only one instance<sup>46</sup> during this period was a question submitted to the Council by means of a communication addressed to the Secretary-General with a request for inclusion of the matter in the provisional agenda of the meeting. In one communication to the President of the Security Council requesting inclusion of a question in the agenda a draft resolution<sup>47</sup> was enclosed. Communications submitting questions for consideration by the Council have been dealt with in accordance with rules 6-9 of the provisional rules of procedure. Material relating to the application of rules 6-9 is contained in chapter II of this *Supplement*. Material on the practice of the Security Council in the implementation of Article 35 of the Charter at the stage of adoption of the agenda will be found in chapter II, part III.

The Council has not, in respect of any of the new questions submitted for its consideration during the period under review, considered whether to accept the designation of a question contained in the initial communication. The question of the appropriate designation for a question included in the agenda at an earlier period was raised<sup>48</sup> in the Council by a Member State.

<sup>46</sup> See Tabulation: entry 6.

<sup>47</sup> See Tabulation: entry 12.

<sup>48</sup> See in this chapter, Case 9 below.

**Tabulation of questions submitted to the Security Council (1956-1958)**

**\*\*SECTION A. QUESTIONS SUBMITTED BY MEMBERS AS DISPUTES**

**SECTION B. QUESTIONS SUBMITTED BY MEMBERS AS SITUATIONS**

| Question  | Submitted by  | States involved   | Articles invoked<br>as basis for<br>submission | Description of question<br>in letter of submission   | Action requested of the<br>Security Council   | References   |
|---|---|-------------------|--|--|---|--|
| 1. Letter dated 13 June 1956 from the representatives of Afghanistan, Egypt, Indonesia, Iran, Iraq, Jordan, Lebanon, Libya, Pakistan, Saudi Arabia, Syria, Thailand and Yemen addressed to the President of the Security Council concerning Algeria | Afghanistan, Egypt, Indonesia, Iran, Iraq, Jordan, Lebanon, Libya, Pakistan, Saudi Arabia, Syria, Thailand, Yemen, <sup>a</sup><br>13 June 1956 | France            | 35   | "... the situation had deteriorated to the extent that the United Nations could not remain indifferent to the threat to peace and security..."   | "... to consider the grave situation in Algeria under Article 35, paragraph 1, of the United Nations Charter" | S/3609, O.R.,<br>11th yr.,<br>Suppl. for<br>Apr.-June<br>1956,<br>pp. 74-76  |
| 2. Situation created by the unilateral action of the Egyptian Government in bringing to an end the system of international operation of the Suez Canal, which was confirmed and completed by the Suez Canal Convention of 1888                      | France, United Kingdom,<br>23 September 1956  | Egypt             | None   | "Situation created by the unilateral action of the Egyptian Government ..."  | "... a discussion of this situation by the Council"   | S/3654, O.R.,<br>11th yr.,<br>Suppl. for<br>July-Sept.<br>1956, p. 47        |
| 3. Military assistance rendered by the Egyptian Government to the rebels in Algeria   | France, 25 October 1956   | Egypt             | None   | "The intervention by the Egyptian Government constitutes an attack on the French sovereignty in flagrant violation of the fundamental rules of international law ..."                    | "... the ... item be placed on the agenda of a forthcoming meeting."  | S/3689, O.R.,<br>11th yr.,<br>Suppl. for<br>Oct.-Dec.<br>1956,<br>pp. 98-100 |
| 4. The situation in Hungary   | France, United Kingdom,<br>United States, 27 October<br>1956  | USSR <sup>b</sup> | 34   | "... the situation created by ... foreign military forces in Hungary is violently repressing the rights of the Hungarian people ... secured by the Treaty of Peace of February 1947 ..." | "... the consideration of this item ..."  | S/3690, O.R.,<br>11th yr.,<br>Suppl. for<br>Oct.-Dec.<br>1956, p. 100        |

|   |                          |                      |      |   |  |   |
|---|--------------------------|----------------------|------|---|--|---|
| 5. Letter dated 14 February 1958 from the permanent representative of France to the President of the Security Council concerning: "Situation resulting from the aid furnished by Tunisia to rebels enabling them to conduct operations from Tunisian territory directed against the integrity of French territory and the safety of the persons and property of French nationals" | France, 14 February 1958 | Tunisia              | None | "...the Algerian rebels, aided and abetted by the Tunisian authorities, have been able...to establish in Tunisia a complete organization enabling them to carry out numerous border violations and incursions into French territory..." | "...the assistance furnished by Tunisia to the Algerian rebels should be condemned by the Council" | S/3954, O.R., 13th yr., Suppl. for Jan.-Mar. 1958, pp. 15-16  |
| 6. Letter dated 20 February 1958 from the representative of Sudan addressed to the Secretary-General  | Sudan, 20 February 1958  | Egypt                | None | "...the grave situation existing on the Sudan-Egyptian border, resulting from the massed concentration of Egyptian troops moving towards the Sudanese frontiers"  | "...to meet immediately and use its good offices to stop the impending Egyptian aggression"        | S. 3963, O.R., 13th yr., Suppl. for Jan.-Mar. 1958, pp. 21-22 |
| 7. Letter dated 22 May 1958 from the representative of Lebanon addressed to the President of the Security Council concerning: "Complaint by Lebanon in respect of a situation arising from the intervention of the United Arab Republic in the internal affairs of Lebanon, the continuance of which is likely to endanger the maintenance of international peace and security"   | Lebanon, 22 May 1958     | United Arab Republic | None | "The said intervention consists, <i>inter alia</i> , of the following acts:..."   | "to call an urgent meeting ... to consider the ... question..."                                    | S/4007, O.R., 13th yr., Suppl. for Apr.-June 1958, p. 33      |

a For discussion on the inclusion in the agenda, see chapter II, part III.B.1, Case 5.

b In the communication of 27 October 1956, reference was made to: "...foreign military forces in Hungary..."

c This question was considered by the Security Council together with the Tunisian complaint listed in Section C, entry 14.

| <i>Question</i>   | <i>Submitted by</i>  | <i>States involved</i> | <i>Articles invoked as basis for submission</i> | <i>Description of question in letter of submission</i>                           | <i>Action requested of the Security Council</i>  | <i>References</i>  |
|---|----------------------|------------------------|---|--|--|--|
| 8. Letter dated 29 May 1958 from the representative of France to the President of the Security Council concerning:<br>(a) "The complaint brought by France against Tunisia on 14 February 1958" (S/3954) and<br>(b) "The situation arising out of the disruption, by Tunisia of the Modus Vivendi which had been established since February 1958 with regard to the stationing of French troops at certain points in Tunisian territory" <sup>d</sup> | France, 29 May 1958  | Tunisia                | None  | "... the Tunisian Government has created conditions likely to lead to incidents" | "... to recommend to the Tunisian Government that it should restore conditions favourable to a resumption of negotiations" | S/4015, <i>O.R.</i> , 13th yr., <i>Suppl. for Apr.-June 1958</i> , pp. 42-44 |
| 9. Jordan question  | Jordan, 17 July 1958 | United Arab Republic   | None  | "... interference in its domestic affairs by the United Arab Republic."          | "... urgent consideration..."  | S/4053   |

<sup>d</sup> This question was considered by the Security Council together with the Tunisian complaint, listed in Section C, entry 16.

#### SECTION C. QUESTIONS SUBMITTED BY MEMBERS AS THREATS TO THE PEACE, BREACH OF THE PEACE OR ACTS OF AGGRESSION

| <i>Question</i>   | <i>Submitted by</i>      | <i>States involved</i>   | <i>Articles invoked as basis for submission</i> | <i>Description of question in letter of submission</i>   | <i>Action requested of the Security Council</i>           | <i>References</i>   |
|---|--------------------------|--|---|--|---|---|
| 10. Actions against Egypt by some Powers, particularly France and the United Kingdom, which constitute a danger to international peace and security and are serious violations of the Charter of the United Nations | Egypt, 24 September 1956 | "... some Powers, particularly France and the United Kingdom..." | None  | "Actions against Egypt... which constitute a danger to international peace and security..."  | "... to consider the following: Actions against Egypt..." | S/3656, <i>O.R.</i> , 11th yr., <i>Suppl. for July-Sept. 1956</i> , p. 48 |
| 11. Letter dated 30 October 1956 from the representative of Egypt   | Egypt, 30 October 1956   | United Kingdom, France   | None  | "This threat of force... impel the Government of Egypt to request the Security Council to be immediately convened to consider this act of aggression by the United Kingdom and France" | "... to consider this act of aggression..."               | S/3712, <i>O.R.</i> , 11th yr., <i>Suppl. for Oct.-Dec. 1956</i> , p. 111 |

|  |  |                                |      |  |   |   |
|--|--|--------------------------------|------|--|---|---|
| 12. Cablegram dated 5 November 1956 from the Minister for Foreign Affairs of the Union of Soviet Socialist Republics, addressed to the President of the Security Council, concerning: "Non-compliance by the United Kingdom, France and Israel with the decision of the emergency special session of the General Assembly of 2 November 1956 and immediate steps to halt the aggression of the aforesaid States against Egypt" | USSR. <sup>e</sup> 5 November 1956   | United Kingdom, France, Israel | None | "Despite the decision of the emergency special session of the General Assembly... the aggressive war against Egypt is being intensified. This situation imposes the need..."   | "USSR draft resolution: "1. Proposes to the Governments of the United Kingdom, France and Israel that they should immediately... cease all military action against Egypt... 2. Considers it essential, in accordance with Article 42 of the United Nations Charter, that all States Members of the United Nations, ... should give military and other assistance to the republic of Egypt..." | S/3736, O.R., 11th yr., Suppl. for Oct.-Dec. 1956, pp. 128-130          |
| 13. Letter dated 13 August 1957 from the permanent representatives of Egypt, Iraq, Jordan, Lebanon, Libya, Morocco, Saudi Arabia, Sudan, Syria, Tunisia and Yemen addressed to the President of the Security Council   | Egypt, Iraq, Jordan, Lebanon, Libya, Morocco, Saudi Arabia, Sudan, Syria, Tunisia, <sup>f</sup> Yemen. <sup>g</sup> 13 August 1957 | United Kingdom                 | 35   | "... The British acts of aggression against the peaceful people of Oman will, if permitted to continue, lead to serious consequences..."   | "... an immediate action by the Security Council..."  | S/3865 and Add.1, O.R., 12th yr., Suppl. for July-Sept. 1957, pp. 16-17 |
| 14. Letter dated 13 February 1958 from the permanent representative of Tunisia to the President of the Security Council concerning: "Complaint by Tunisia in respect of an act of aggression committed against it by France on 8 February 1958 at Sakiet-Sidi-Youssef"   | Tunisia, 13 February 1958  | France                         | 2(4) | "... the act of aggression committed on 8 February is of a particularly serious nature, not only because of the number of lives lost and the extent of the danger caused, but also because of the earlier acts of a similar kind committed since May 1957" | "... to take whatever decision it may deem appropriate to put an end to a situation which threatens Tunisia's security and endangers international peace and security in that part of the world"  | S/3952, O.R., 13th yr., Suppl. for Jan.-Mar. 1958, pp. 13-14            |

<sup>e</sup> For discussion on the inclusion in the agenda, see chapter II, part III.B.1, Case 9.

<sup>f</sup> S/3965/Add.1, O.R., 12th year, Suppl. for July-Sept. 1957, pp. 16-17.

<sup>g</sup> For discussion on the inclusion in the agenda, see chapter II, part III.B.1, Case 11.



| Question   | Submitted by         | States involved | Articles invoked as basis for submission | Description of question in letter of submission   | Action requested of the Security Council  | References   |
|--|----------------------|-----------------|--|---|---|--|
| 15. Complaint of the representative of the Union of Soviet Socialist Republics in a letter to the President of the Security Council dated 18 April 1958 entitled: "Urgent measures to put an end to flights by United States military aircraft armed with atomic and hydrogen bombs in the direction of the frontier of the Soviet Union." | USSR, 18 April 1958  | United States   | None                                     | "The threat to the cause of peace which has arisen as a result of the danger arising out of the numerous cases of flights in the direction of the USSR territory by the United States bombers carrying hydrogen bombs..." | "... give... the most urgent consideration and ... take the necessary steps to eliminate this threat to the cause of peace"   | S/3990, O.R., 13th yr., Suppl. for Apr.-June 1958, p. 8      |
| 16. Letter dated 29 May 1958 from the representative of Tunisia to the President of the Security Council concerning: "Complaint by Tunisia in respect of acts of armed aggression committed against it since 19 May 1958 by the French military forces stationed in its territory and in Algeria"  | Tunisia, 29 May 1958 | France          | None                                     | "... Tunisia would draw ... attention to the extreme gravity of the situation resulting from these repeated acts of what is indisputably armed aggression against its territorial integrity by the French forces..."      | "... to take such measures it may deem necessary — in accordance with Article 40 and subsequent Articles of the United Nations Charter — in order to put an end to this situation." | S/4013, O.R., 13th yr., Suppl. for Apr.-June 1958, pp. 37-39 |

**\*\*SECTION D. QUESTIONS SUBMITTED BY STATES NOT MEMBERS AS DISPUTES**

**\*\*SECTION E. QUESTIONS SUBMITTED BY STATES NOT MEMBERS AS THREATS TO THE PEACE, BREACHES OF THE PEACE OR ACTS OF AGGRESSION**

**\*\*SECTION F. QUESTIONS SUBMITTED BY THE GENERAL ASSEMBLY**

**\*\*SECTION G. QUESTIONS SUBMITTED BY THE SECRETARY-GENERAL**

**\*\*SECTION H. QUESTIONS SUBMITTED BY THE COUNCIL OF FOREIGN MINISTERS**

## Part IV

## CONSIDERATION OF THE PROVISIONS OF ARTICLES 36-38 AND OF CHAPTER VI IN GENERAL

## NOTE

As was noted in the earlier volumes of the *Repertoire*, the issues arising in the cases entered in part IV of chapter X relate only in minor degree to the real import of the provisions of Articles 36-37 in the working of the Council. In the period under review, material to throw light on that relationship is also scant by reason of the absence of sustained discussion of the connexion between the appropriateness of measures to be adopted by the Council and the provisions of Articles 36-37.

The case histories included in part IV of this chapter comprise those in which discussion has arisen regarding the responsibility of the Security Council for the settlement of the particular dispute or situation under consideration in the light of Chapter VI of the Charter. By reason of divergence of opinion regarding the constitutional basis for or the limits on the powers of the Council to indicate to the parties specific procedures to be followed in the resolution of their difficulties or to recommend terms of settlement, discussion has been directed to the provisions of Chapter VI or to that Chapter as a whole for guidance regarding the proper course to be followed by the Council.

Limitations on the competence of the Council have been suggested on various grounds in addition to Article 2(7)<sup>49</sup> and Article 33.<sup>50</sup> The submission of a matter to the Council as a situation rather than as a dispute has been urged on one occasion<sup>51</sup> as limiting the authority of the Council to make recommendations concerning steps to be taken to give effect to certain of its earlier resolutions in which one of the parties had not concurred. On another occasion<sup>52</sup> the submission of a matter as a situation was considered not to debar the Security Council from giving the parties guidance concerning the substantive basis of a settlement. The question has also arisen whether the Council may exercise powers based on Chapter VII of the Charter in connexion with proposals<sup>53</sup> designed to assure the conditions necessary for the peaceful settlement of matters which the Council was considering in the framework of Chapter VI.<sup>54</sup> The observations on these occasions require to be considered within the context of the Council's effort<sup>55</sup> to promote agreement between the parties and to encourage negotiation by them.

In connexion with the discussion of the obligation of States to continue direct negotiations with regard to

disputes and situations submitted to the Council, observations concerning the retention of such questions on the list of matters of which the Council is seized have stressed the continuing concern of the Council with the progress and outcome of such negotiations as an aspect of its specific responsibility for the maintenance of international peace and security.

CASE 7.<sup>56</sup> SITUATION CREATED BY THE UNILATERAL ACTION OF THE EGYPTIAN GOVERNMENT IN BRINGING TO AN END THE SYSTEM OF OPERATION OF THE SUEZ CANAL, WHICH WAS CONFIRMED AND COMPLETED BY THE SUEZ CANAL CONVENTION OF 1888 : In connexion with the adoption of the agenda

[Note : During the consideration of the adoption of the agenda and afterwards observations were made on the powers of the Security Council under Article 37 to deal with a "situation" referred to it in accordance with Article 35(1) and recommend a settlement based on the Principles of the Charter.]

At the 734th meeting on 26 September 1956, during the discussion on the adoption of the provisional agenda,<sup>57</sup> the representative of Peru stated that France and the United Kingdom, faced with a dispute or situation which was likely to disturb or endanger international peace, after having done everything possible to settle this situation or dispute by negotiation and having complied with Article 37 of the Charter, had referred it to the Security Council. The representative of Peru pointed out that under Article 37 recourse to the Security Council was not optional. If the parties to a dispute "fail to settle it by negotiation, it is not left to their disposition to refer it to the Security Council. The terms of the Charter are categorical : they shall refer it to the Security Council".

At the same meeting, the agenda was adopted.<sup>58</sup>

At the 735th meeting on 5 October 1956, the President, speaking as the representative of France, stated that the United Kingdom and France had "brought this situation to the attention of the President of the Security Council" on 23 September in accordance with Article 35(1) of the Charter.

At the 737th meeting on 8 October 1956, the representative of Peru pointed out that the Powers concerned had referred the question to the Security Council under Article 35 of the Charter and had insisted that their

<sup>49</sup> See chapter XII, part II.

<sup>50</sup> See part I above.

<sup>51</sup> See Case 9.

<sup>52</sup> See Case 7.

<sup>53</sup> See Case 8.

<sup>54</sup> See Case 10.

<sup>55</sup> See Case 11 and part I above.

<sup>56</sup> For texts of relevant statements, see :

734th meeting : Peru, paras. 69-71 ;

735th meeting : France (President) : para. 103 ;

737th meeting : Peru, paras. 6-8, 26-34.

<sup>57</sup> See chapter II, part III.B.1, Case 6.

<sup>58</sup> 734th meeting : paras. 121-123.

application should be dealt with as a situation and not a dispute.

"In the event of any situation or dispute likely to endanger world peace, the Council may assume competence *ex officio*, of its own initiative. On this occasion its competence has been brought into being by application by one of the parties, and the application of France and the United Kingdom refers to the case as a situation and not as a dispute. There are differences between these two forms of application. Under Article 36 of the Charter the Security Council may, when faced with a situation, recommend procedures or methods of adjustment. If, however, the parties present the case as a dispute, the Council has wider powers under Article 37 of the Charter. When a dispute is referred to it, the Council may either use the limited power vested in it under Article 36, and adopt only methods or procedures, or use the wider power of indicating what it considers appropriate terms of settlement; this gives it very wide discretionary powers in resolving the problem."

If a question was submitted to the Council as a situation, the representative of Peru asked,

"... does it follow that the competence of the Council is limited solely to recommending procedures and methods of adjustment — the well known procedures of conciliation, mediation, good offices or, if the problem is legal in character, a legal solution — or should the Council try to find some way of restoring the harmony between the parties which has been disrupted? ..."

In this case, the representative of Peru believed that the Council could, *ex officio*, investigate any situation or dispute which might arise, and then, on its own initiative,

"use the powers bestowed upon it by Article 37 of the Charter, and if, on studying a problem, it discovers that the situation involves a dispute and that what has been laid before it as a situation has, as in the present instance, entailed negotiations and consequently discussions between the parties, and that there is in fact a dispute, the Council can be the judge of its own competence and can assume the powers provided in Article 37, deciding whether simply to recommend procedures and methods of adjustment or to suggest, conscientiously and with a view to the ultimate objectives of universal peace and security, the terms of settlement which it deems the most appropriate."

The present situation involved at once an economic and political interest, and it also raised the problem of peace and war. The representative of Peru asked whether the Security Council could not, with the powers which he had outlined, find "some procedure, some method of adjustment, some terms of reference", and expressed the view that

"Although the procedures open to it are the conventional procedures, and methods of adjustment depend on circumstances, they could yet be commended to the parties. But methods of adjustment do not represent the most appropriate solution when there are principles in the Charter that could provide a remedy."

CASE 8.<sup>59</sup> SITUATION CREATED BY THE UNILATERAL ACTION OF THE EGYPTIAN GOVERNMENT IN BRINGING TO AN END THE SYSTEM OF INTERNATIONAL OPERATION OF THE SUEZ CANAL, WHICH WAS CONFIRMED AND COMPLETED BY THE SUEZ CANAL CONVENTION OF 1888: In connexion with paragraph (5) of the operative part of the French-United Kingdom joint draft resolution submitted on 13 October 1956 to consider that pending the definitive settlement of the régime of the Suez Canal, the Suez Canal Users' Association and the Egyptian authorities should co-operate to ensure the satisfactory operation of the Canal: failed of adoption

[*Note*: The provision of paragraph (5) of the joint draft resolution gave rise to the objection that there was no need to provide for any extraordinary measures when the question had been before the Security Council and the negotiations between the parties had been continuing. In reply, it was contended that provisional measures defined in Article 40 of the Charter might be applied by the Security Council by analogy also in connexion with a question considered under Chapter VI of the Charter.]

At the 742nd meeting on 13 October 1956, the representatives of France and the United Kingdom submitted a joint draft resolution,<sup>60</sup> providing for the Security Council to agree that any settlement of the Suez question should meet the six requirements defined therein. The last operative paragraph (para. 5) provided for the Security Council to consider

"... that pending the conclusion of an agreement for the definitive settlement of the régime of the Suez Canal on the basis of the requirements set out above, the Suez Canal Users' Association, which has been qualified to receive the dues payable by ships belonging to its members, and the competent Egyptian authorities, should co-operate to ensure the satisfactory operation of the Canal and free and open transit through the Canal in accordance with the Convention, signed at Constantinople on 29 October 1888 destined to guarantee the free use of the Suez Maritime Canal."

At the same meeting, the representative of the United Kingdom, referring to the concluding paragraph of the French-United Kingdom draft resolution, expressed the hope that all members of the Security Council were agreed that what had been called conservatory measures, or in the language of the Charter, provisional measures, were essential in order to ensure that subsequent negotiations towards a settlement would not in the meantime be prejudiced by any events or incidents which might occur. The Security Council must, therefore, see that there was a provisional regulation of practical problems which arose in the operation of the Canal. While avoid-

<sup>59</sup> For texts of relevant statements, see:

742nd meeting: USSR, para. 97; United Kingdom, para. 26;

743rd meeting: Belgium, paras. 62-65; Peru, paras. 86-89; United States, para. 12.

<sup>60</sup> S/3671, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 19-20.

ing undue formality, the Security Council must institute a *modus vivendi* pending the conclusion of an agreement for the definitive settlement of the régime of the Suez Canal on the basis of the six requirements, defined in the joint draft resolution.

The representative of the USSR contended that since the Suez question had now become the concern of the United Nations, this fact together with the continuation of the negotiations initiated on the Suez Canal question constituted a genuine safeguard obviating the need to apply any extraordinary measures.

At the 743rd meeting on 13 October 1956, the representative of the United States expressed the view that the Charter itself contemplated that provisional measures might be called for by the Council in relation to matters before it. In other words, the Charter made it quite clear that, simply because a case was pending before the Council, this did not exclude the need for interim arrangements.

The representative of Belgium stated that those who had drafted the Charter had fully realized that in certain circumstances, when it was difficult to reach a final solution, the wise thing was to agree upon "a certain number of provisional measures which . . . should have the purpose and the effect of preventing the occurrence of incidents and the deterioration of the situation". He quoted from Article 40 of the Charter: "... Such provisional measures shall be without prejudice to the rights, claims or position of the parties concerned" and asked how was "it possible, in such a delicate and serious situation . . . not to feel the absolute necessity of applying . . . Article 40 and adopting by common accord such provisional measures, 'without prejudice to the rights, claims or position of the parties concerned'?"

The representative of Belgium stated further that he was well aware that "the Chapter of the Charter which relates to the type of question we are considering does not specifically mention these provisional measures". But it was clear to him that "there is no legal problem about applying this principle from Chapter VII to the matters referred to in Chapter VI".

The representative of Peru pointed out that, although, strictly speaking, before provisional measures could be taken, the Security Council must first determine the existence of a threat to the peace, breach of the peace, or act of aggression, it was

"... obvious that, by analogy, provisional measures may also be taken under Chapter VI. They are not specifically provided for in Chapter VI, but, in empowering the Security Council in Articles 34, 36 and 37 of this Chapter *ex officio* to investigate any situation which is likely to endanger peace and, more particularly, in empowering it under Article 37 to recommend 'terms of settlement', the Charter did not exclude provisional measures from those terms of settlement, precisely so that such measures could be put into effect. There is a legal axiom according to which principles which are not directly relevant may be applied to similar cases by analogy.

"If the provisional measures to prevent 'an aggravation' of the situation — to quote Article 40 of the

Charter — are put into effect in the case of aggression or of a threat to the peace, why should they not be put into effect in cases where it may be said that there is probably a threat to the peace?"

The Security Council had such powers with regard to the term of settlement that it could certainly decide upon these provisional measures.

At the same meeting, the President (France) put the joint draft resolution to the vote in two parts. The first part included paragraph 1 of the operative part with the preamble and the second part began with paragraph 2 and continued to the end of the draft resolution. The first part of the draft resolution was adopted unanimously.<sup>61</sup> The second part failed of adoption; there were 9 votes in favour and 2 against (one of the negative votes being that of a permanent member).<sup>62</sup>

CASE 9.<sup>63</sup> THE INDIA-PAKISTAN QUESTION: In connexion with the joint draft resolution submitted by Australia, Cuba, the United Kingdom and the United States, and the USSR and Colombian amendments thereto: voted upon and rejected on 20 February 1957; and with the joint draft resolution submitted by Australia, the United Kingdom and the United States: voted upon and adopted on 21 February 1957

[Note: During the consideration of the item, the representative of India\* contended, in commenting on the joint draft resolution submitted on 15 February 1957 by Australia, Cuba, the United Kingdom and the United States, that the question before the Security Council was not a "dispute" but a "situation" created by an act of aggression against India. On 20 February 1957, amendments submitted by the USSR and Colombia, which took into account the contention of the representative of India, were rejected as was the joint draft resolution. A joint draft resolution, submitted by Australia, the United Kingdom and the United States was adopted on 21 February 1957.]

At the 762nd meeting on 23 January 1957, the representative of India\* referred to the letter<sup>64</sup> from the

<sup>61</sup> 743rd meeting: para. 105.

<sup>62</sup> 743rd meeting: para. 106.

<sup>63</sup> For texts of relevant statements, see:

762nd meeting: India\*, paras. 8-15, 106, 108, 136;

764th meeting: India\*, para. 191;

765th meeting: President (Philippines), para. 106; China, paras. 64-67; USSR, para. 82;

766th meeting: Pakistan\*, paras. 6, 16;

767th meeting: China, para. 249; India\*, paras. 66, 70, 74, 83-84, 99-101, 219-221;

769th meeting: India\*, paras. 136-137;

770th meeting: USSR, para. 145;

771st meeting: Colombia, paras. 1-2, 4-5;

772nd meeting: India\*, paras. 58, 105; United Kingdom, para. 150; United States, para. 115;

773rd meeting: Philippines, para. 43;

774th meeting: Pakistan\*, para. 13.

<sup>64</sup> S/628, O.R., 3rd year, Suppl. for Nov., 1948, pp. 139-144.

Government of India to the Security Council dated 1 January 1948 to support his contention that the Indian Government had not brought a dispute about territory to the Council but a situation stemming from an act of aggression by Pakistan.

At the 765th meeting on 24 January 1957, the representative of China observed that the letter dated 1 January 1948 containing the Indian request to the Security Council to put the question on the agenda had indeed referred to "aggression". However, the representative of Pakistan at that time had made a counter-charge of acts of aggression by India against Pakistan. The charge had never been "taken up", and "never even given serious consideration". The representative of China thought "the basic question" was whether the State of Jammu and Kashmir should become a part of India or a part of Pakistan, and he asked whether this was not "a dispute with regard to territory".

The President, speaking as the representative of the Philippines, contended that it might have been the original intention of India to seize the Security Council not of a dispute but of a situation which might, by its continuance, endanger the maintenance of peace and security. However, the subsequent filing of a counter-complaint by Pakistan had "converted the situation into a dispute within the meaning of the Charter". This was affirmed in the resolution of the Council of 21 April 1948 in which it was stated "that the continuation of the dispute is likely to endanger international peace and security".<sup>65</sup>

At the 766th meeting on 30 January 1957, the representative of Pakistan\* stated that at an early stage of the debate, the Security Council had come to the conclusion first that "a situation likely to endanger international peace and security existed in view of the dispute between the Maharaja and his people", and subsequently between India and Pakistan over the question of the accession of the State of Jammu and Kashmir to India or Pakistan; and secondly, that there was general agreement between the parties that "the situation could be resolved only if the dispute was resolved by means of a free and impartial plebiscite".

At the 768th meeting on 15 February 1957, Australia, Cuba, the United Kingdom and the United States submitted a joint draft resolution,<sup>66</sup> to provide that:

"The Security Council,

"...

"Concerned at the lack of progress in settling the dispute,

"Considering the importance which it has attached to the demilitarization of the State of Jammu and Kashmir as a step towards the settlement of the dispute,

"...

"Believing that, in so far as it might contribute

<sup>65</sup> 284th meeting: p. 2; S/726, O.R., 3rd year, Suppl. for April 1948, pp. 8-12; See *Repertoire of the Practice of the Security Council, 1946-1951*.

<sup>66</sup> S/3787, O.R., 12th year, Suppl. for Jan.-Mar. 1957, pp. 7-8.

towards the achievement of demilitarization as envisaged in the resolutions of the United Nations Commission for India and Pakistan and towards the pacific settlement of the dispute, the use of such a force would deserve consideration,

"1. Requests the President of the Security Council, the representative of Sweden, to examine with the Governments of India and Pakistan proposals which, in his opinion, are likely to contribute to the achievement of demilitarization or to the establishment of other conditions for progress towards the settlement of the dispute, . . .

"..."

At the 769th meeting on 15 February 1957, the representative of India\*, referring to the joint draft resolution before the Council, pointed out that the word "dispute" in paragraph 3 of the preamble had been introduced by the Security Council without India's assent. The only two resolutions<sup>67</sup> to which India had agreed were those of 17 January and 20 January 1948 and the resolutions<sup>68</sup> of the United Nations Commission for India and Pakistan of 13 August 1948 and 5 January 1949 in which the word "dispute" did not occur. The word used was "situation". The representative of India thought that "the introduction of the word 'dispute' means a political change". The "reintroduction" of the word "dispute" was an attempt on the part of the sponsors of subsequent resolutions "to weight these things" against India because the matter before the Security Council was a "situation", not a "territorial dispute".

At the 770th meeting on 18 February 1957, the representative of the USSR submitted amendments<sup>69</sup> to the joint draft resolution: (1) to replace the preamble by the text:

"Having heard the statements of the representatives of the Governments of India and Pakistan."

and (2) to amend paragraph 1 of the operative part to read:

"1. Requests the President of the Security Council, the representative of Sweden, to examine with the Governments of India and Pakistan the situation in respect of Jammu and Kashmir, and to consider the progress that can be made towards the settlement of the problem . . ."

At the 771st meeting on 18 February 1957, the representative of Colombia submitted an amendment<sup>70</sup> to the joint draft resolution: (1) to replace the preamble by the text:

"The Security Council,

"Recalling its previous resolutions and the letter addressed to the President of the U.N.C.I.P. on 20

<sup>67</sup> S/651 and S/654, *Repertoire of the Practice of the Security Council, 1946-1951*, pp. 344-355.

<sup>68</sup> S/1100, O.R., 3rd year, Suppl. for Nov. 1948, pp. 32-34; S/1196, O.R., 4th year, Suppl. for Jan. 1949, pp. 23-25.

<sup>69</sup> S/3789, O.R., 12th year, Suppl. for Jan.-Mar. 1957, p. 8.

<sup>70</sup> S/3791/Rev.1 and Corr.1, O.R., 12th year, Suppl. for Jan.-Mar. 1957, pp. 8-9.

August 1948, by India's Prime Minister [S/1100, para. 78];

and (2) amend paragraph 1 of the operative part to read :

"1. *Requests* the President of the Security Council, the representative of Sweden, to examine with the Governments of India and Pakistan proposals, which, in his opinion, are likely to contribute to the achievement of the provisions contemplated in the resolutions of 13 August 1948 [S/1100, para. 75], and 5 January 1949 [S/1196, para. 15], of the U.N.C.I.P. or to the establishment of other conditions for progress towards the settlement of the problem . . ."

In explanation of his amendment, the representative of Colombia stated :

"We shall not at this juncture discuss . . . the distinction between 'situation' and a 'dispute'; yet, without doubt, if we study the Charter, we must agree that, in the first place, it is not very clear. In the second place, this Kashmir case has the special feature that some of the resolutions, especially those of the United Nations Commission, spoke of a 'dispute', while others spoke of a 'situation'. Furthermore, I think that if we wish to be correct, we could reach the following conclusions: the Charter speaks of 'situation' and 'dispute'. However, there is also an intermediate stage, that of a 'presumption of a dispute', in which case the Security Council has the right to investigate whether a situation is simply a 'situation' or whether it is a 'dispute'.

"Consequently . . . I think that in this case it is better to use the word 'problem', as the Soviet Union has done, because this enables us to reserve the right of the Security Council. If, at a given time, the Security Council sees that it is necessary to take action under Chapter VII of the Charter, we can decide at that time that we are confronted with a 'dispute'. Besides, it seems to me inadvisable to use the word 'dispute' so long as the Council has not decided to take action under Chapter VII. The word 'problem', therefore, seems to me a very appropriate choice."

At the 772nd meeting on 20 February 1957, the representative of India\* pointed out that when, on 1 January 1948, the Government of India had submitted a formal complaint to the Security Council under Chapter VI of the Charter, it had come to the Security Council to ask its assistance in obtaining, under this Chapter, "the end of an aggression". India could have invoked Chapter VII, but it had preferred to invoke Chapter VI.

The representative of the United States observed that under the USSR amendments to the joint draft resolution, the word "dispute" was changed to the word "situation". While the Security Council had used the word "situation" in its earliest resolutions, it had subsequently used the word "dispute" consistently. This had been the word used in the resolution of 24 January 1957 and, in the opinion of the United States delegation, "it reflects the facts".

The representative of the United Kingdom stated that an effect of the USSR amendments was to eliminate the

word "dispute" in the draft resolution. He was puzzled that there should be any objection to this word. Not only had it been used in many Security Council resolutions, but also it had been used in the joint communiqué issued to the Press in New Delhi on 20 August 1953.

At the 773rd meeting on 20 February 1957, the representative of the Philippines contended that the USSR and Colombian amendments seemed to accept that the President of the Council should be given, under the joint draft resolution, the necessary freedom for examination of other proposals likely to contribute to "the establishment of other conditions for progress towards the settlement of the dispute". However, both amendments skirted the argument of the representative of India that what the Council was seized of was a "situation" and not a "dispute". Instead, they adopted the word "problem" which did not appear in Chapter VI. It was not seen how the Council could get away from its resolution of 21 April 1958 which found that "the continuance of the dispute between the Governments of India and Pakistan is likely to endanger international peace and security".

At the same meeting, the amendments submitted by the USSR were rejected by 1 vote in favour and 2 against, with 8 abstentions.<sup>71</sup>

The amendment submitted by Colombia was rejected by 1 vote in favour and none against, with 10 abstentions.<sup>72</sup>

The joint draft resolution submitted by Australia, Cuba, the United Kingdom and the United States was not adopted. There were 9 votes in favour and 1 against, with 1 abstention (the negative vote being that of a permanent member).<sup>73</sup>

At the same meeting, Australia, the United Kingdom and the United States submitted a joint draft resolution,<sup>74</sup> according to which

"The Security Council,

"*Recalling* its resolution of 24 January 1957, its previous resolutions and the resolutions of the United Nations Commission for India and Pakistan on the India-Pakistan question,

"1. *Requests* the President of the Security Council, the representative of Sweden, to examine with the Governments of India and Pakistan any proposals which, in his opinion, are likely to contribute towards the settlement of the dispute, . . . ;

" . . ."

At the 774th meeting on 21 February 1957, the representative of Pakistan\* stated that the question of the accession of the State of Jammu and Kashmir to Pakistan or to India "is a matter in dispute between India and Pakistan. The dispute involves in essence the right of self-determination of the people of the State on this disputed question of accession".

<sup>71</sup> 773rd meeting : para. 124.

<sup>72</sup> 773rd meeting : para. 125.

<sup>73</sup> 773rd meeting : para. 126.

<sup>74</sup> S/3792 and Corr.1, 773rd meeting : para. 130.

At the same meeting, the joint draft resolution submitted by Australia, the United Kingdom and the United States was adopted by 10 votes in favour and none against, with 1 abstention.<sup>75</sup>

In his report<sup>76</sup> on the India-Pakistan question prepared in pursuance of the resolution of the Security Council of 21 February 1957, and transmitted to the President of the Security Council on 29 April 1957, the representative of Sweden stated :

"During our conversations the Government of India laid particular emphasis on the fact that, in their view, two factors stood in the way of the implementation of the two resolutions adopted by the United Nations Commission for India and Pakistan . . . The second of these impediments, which concerned rather part II of the first resolution, was that the Government of India, which had brought the case before the Security Council on 1 January 1948, felt aggrieved that the Council had so far not expressed itself on the question of what, in the Indian view, was aggression committed by Pakistan on India. In the Indian Government's view, it was incumbent on the Council to express itself on this question and equally incumbent on Pakistan 'to vacate the aggression'. It was argued that prior to the fulfilment of these requirements on the part of the Security Council and on the part of Pakistan the commitments of India under the resolution of 13 August 1948 could not reach the operative stage.

"I explained to the Government of India that the Security Council had properly taken cognizance of the original Indian complaint, and that it was not for me to express myself on the question whether its resolutions on the matter had been adequate or not. I pointed out that regardless of the merits of the present position taken by the Government of India, it could not be overlooked that India had accepted the two resolutions adopted by the Commission for India and Pakistan."

CASE 10.<sup>77</sup> THE INDIA-PAKISTAN QUESTION: In connexion with the Pakistan proposal for the use of a United Nations force; and with the joint draft resolution submitted by Australia,

<sup>75</sup> 774th meeting: para. 79; S/3793, O.R., 12th year, Suppl. for Jan.-Mar. 1957, p. 9.

<sup>76</sup> S/3821, O.R., 12th year, Suppl. for Apr.-June 1957, pp. 12-16.

<sup>77</sup> For texts of relevant statements, see :

761st meeting: Pakistan\*, para. 112 ;

768th meeting: Australia, paras. 53-55; China, paras. 130-131; Colombia, paras. 79-83; Philippines, para. 115; United Kingdom, para. 12; United States, paras. 33-34 ;

769th meeting: France, paras. 32-33; India\*, paras. 143-154, 166-167; Iraq, para. 24 ;

770th meeting: Pakistan\*, paras. 118-128; USSR, para. 145 ;

771st meeting: Colombia, para. 6 ;

772nd meeting: United States, para. 113 ;

773rd meeting: India\*, paras. 67-80; Philippines, para. 48 ; USSR, paras. 18-21 ;

774th meeting: Pakistan\*, para. 9 ; USSR, para. 44.

Cuba, the United Kingdom and the United States, and the USSR and Colombian amendments thereto: voted upon and rejected on 20 February 1957; and with the joint draft resolution submitted by Australia, the United Kingdom and the United States: voted upon and adopted on 21 February 1957

[Note: Against a joint draft resolution suggesting consideration of a proposal to entrust the functions of protecting Jammu and Kashmir to a United Nations force, it was contended that recommendations of the Security Council, acting under Chapter VI of the Charter, required the agreement of the parties concerned to become effective. It was also maintained that a United Nations force could be established by the Security Council only under Chapter VII of the Charter. On 20 February 1957, the amendments submitted to the joint draft resolution were rejected and the joint draft resolution was not adopted. Subsequently, a joint draft resolution submitted by Australia, the United Kingdom and the United States, which did not contain any provision bearing on the use of such a force, was adopted.]

At the 761st meeting on 16 January 1957, the representative of Pakistan\* stated that it had been agreed by the Governments of India and Pakistan and by the Security Council that demilitarization of the State of Jammu and Kashmir was an essential prerequisite of a free and impartial plebiscite.

"In view of this, the Security Council should call upon the parties to withdraw all their troops from the State and should also ensure that the local forces which should be placed under the representative of the Security Council and left behind, are suitably reduced, if not disbanded altogether. The functions of protecting the State and ensuring internal security should be entrusted by the Council to a United Nations Force which should be introduced into the area . . ."

At the 768th meeting on 15 February 1957, a joint draft resolution<sup>78</sup> was submitted by Australia, Cuba, the United Kingdom and the United States, according to which

"The Security Council,

" . . .

"Noting the proposal of the representative of Pakistan for the use of a temporary United Nations force . . . (preamble, para. 6)

"Believing that, in so far as it might contribute towards the achievement of demilitarization . . . the use of such a force would deserve consideration. (preamble, para. 7)

"1. Requests the President of the Security Council, the representative of Sweden, to examine with the Governments of India and Pakistan proposals which, in his opinion, are likely to contribute to the achieve-

<sup>78</sup> S/3787, O.R., 12th year, Suppl. for Jan.-Mar. 1957, pp. 7-8.

ment of demilitarization . . . bearing in mind the statements of the representatives of the Governments of India and Pakistan and the proposal for the use of a temporary United Nations force :

“ . . . ”

At the same meeting, the representative of Colombia observed that when the Security Council had appointed the Commission for India and Pakistan in 1948, the same error had been committed which the Council was about to commit with the draft resolution before it : the Commission's sole terms of reference being to negotiate within the framework of the resolution of 21 April 1948 which had been denounced beforehand by one of the parties, i.e., India. Thus on its arrival in India, the Commission had found itself acting as a conciliator under Chapter VI of the Charter and yet required to keep strictly to a resolution denounced by India. The agreement reached was not a consequence of the resolution but of direct negotiations, and constituted a compromise between two opposed positions. The Security Council could not “introduce new elements”, which would necessitate re-examination of the entire situation. Within the framework of Chapter VI, “we must not forget that we are acting as mediators and that the parties must agree to the suggestions”.

The idea of United Nations troops seemed to be “an excellent one, but only if and when India accepts it first”. The Security Council could not impose the presence of such troops. It must “first obtain the consent of the parties concerned” to their presence. The Security Council could not “put down at once in a resolution a series of new elements on the presence of United Nations troops without the countries having requested them”. The representative of Colombia added:

“Thus the idea is excellent, but only if and when the President of the Council obtains the consent of the parties in advance, because according to Chapter VI, nothing can be done unless the parties agree beforehand.”

The representative of China found that the idea of a United Nations force deserved consideration and pointed out that the Security Council was considering this problem under Chapter VI of the Charter. It had not come “to the stage of imposing any solution on either party”. Therefore, the joint draft resolution rightly asked the two parties only to give this proposal their consideration and asked the President to bring this proposal to the parties concerned and ask for their consideration.

At the 769th meeting on 15 February 1957, the representative of France stated that the joint draft resolution was not “in the nature of a substantive decision”. It confined itself to “prescribing a fact-finding measure” and the Council would take no decision on the solution of the Kashmir question until it had heard the report of the President. He did not, therefore, think that the final provision of operative paragraph 1 should be regarded “as anything but an indication”. The President would undoubtedly examine with the Governments of India and Pakistan all the aspects, both juridical and practical, of the use of a United Nations force.

The representative of India\* said that the proposal for the use of a United Nations force was contrary to the Charter “because the United Nations has no authority to place any soldiers in our territory under Chapter VI . . .” He pointed out that any soldier setting foot in the Pakistan area of the State of Jammu and Kashmir was violating the sovereignty of the Indian Union and declared that the Government of India would in no circumstances permit foreign troops on its soil. The Security Council was asking India to accept a situation which was contrary to the provisions of the Charter.

At the 770th meeting on 18 February 1957, the representative of Pakistan\* contended that the question of stationing United Nations troops on Indian soil did not arise. It must be clearly understood that

“this United Nations force is going into Kashmir with the consent of both parties, in the sense that both parties have agreed to demilitarize, and both parties have agreed to withdraw their forces. It is in pursuance of that agreement . . . for demilitarization, that this force is going . . . We are agreeing to it, and India has already agreed to demilitarization. Therefore its consent is presumed.”

At the same meeting, the representative of the USSR submitted amendments<sup>79</sup> to the joint draft resolution :

(1) to replace the preamble by the following text :

“*Having heard* the statements of the representatives of the Governments of India and Pakistan.”

and (2) to amend paragraph 1 of the operative part to read as follows :

“1. *Requests* the President of the Security Council, the representative of Sweden, to examine with the Governments of India and Pakistan the situation in respect of Jammu and Kashmir, and to consider the progress that can be made towards the settlement of the problem, bearing in mind the statements of the representatives of the Governments of India and Pakistan ;

“ . . . ”

At the 771st meeting on 18 February 1957, the representative of Colombia submitted an amendment<sup>80</sup> to the joint draft resolution : (1) to replace the preamble by the following text :

“*The Security Council,*

“*Recalling* its previous resolutions and the letter addressed to the President of the United Nations Commission for India and Pakistan on 20 August 1948, by India's Prime Minister [S/1100, para. 78] ;”

and (2) to amend paragraph 1 of the operative part to read as follows :

“*Requests* the President of the Security Council, the representative of Sweden, to examine with the Governments of India and Pakistan . . . the proposals for the

<sup>79</sup> S/3789, O.R., 12th year, Suppl. for Jan.-Mar. 1957, p. 8.

<sup>80</sup> S/3791/Rev.1 and Corr.1, O.R., 12th year, Suppl. for Jan.-Mar. 1957, pp. 8-9.



use of a temporary United Nations force, if accepted by the parties . . . ;

“ . . . ”

In explanation of his amendment, the representative of Colombia stated that the use of a United Nations force “ could only be permitted if the countries concerned expressed their consent ”. What the Security Council wanted to do “ was to invite India to admit the force ”. In the opinion of the representative of Colombia,

“ . . . this point might be settled by a provision explaining that we are asking the President of the Security Council to consider, among other suggestions, the possibility of using a United Nations Force, provided, of course, that India accepts it. If India does not accept the force, it will obviously be unable to go . . . ”

At the 773rd meeting on 20 February 1957, the representative of the USSR asked whether the Security Council endorsed the idea of using a United Nations armed force in Kashmir. If the Security Council wished to act in full conformity with the Charter, it would have to state for what purpose and with what object such forces had been assigned to Kashmir. Article 42 was the only Article of the Charter which referred to the use of armed forces of the United Nations.

“ . . . the Charter nowhere provides for the use of United Nations armed forces for such a purpose as the holding of a plebiscite in any country. Accordingly, the proposal to send armed forces to Kashmir is contrary to the principles of the Charter . . . The effect of this ‘ exploration ’ will be that the Security Council will in fact be approving the idea, with a view to its implementation. ”

The representative of the Philippines observed that it was the Council’s right and duty to express its opinion. It would be failing in its duty if after deliberation it did not express what in its opinion would be a reasonable proposal to solve the deadlock on the question of demilitarization.

The representative of India\* referred to the report<sup>81</sup> of the Secretary-General of 24 January 1957 and quoted sub-paragraphs (a)-(c) of paragraph 5 concerning the use of the United Nations Emergency Force. He contended that the three sub-paragraphs were conclusive in regard to the “ illegality ” of the proposal for the use of a United Nations force in Kashmir, and made this proposal

“ totally impractical ”. He asked those who were responsible for the joint draft resolution to find one word in Chapter VI of the Charter with reference to a United Nations force. There was none. Therefore, it was contrary to the Charter.

At the same meeting, the USSR and Colombian amendments to the joint draft resolution were rejected.<sup>82</sup>

The joint draft resolution submitted by Australia, Cuba, the United Kingdom and the United States was not adopted. There were 9 votes in favour and 1 against, with 1 abstention (the negative vote being that of a permanent member).<sup>83</sup>

At the same meeting, Australia, the United Kingdom and the United States submitted a joint draft resolution,<sup>84</sup> in which it was provided that

“ *The Security Council,*

“ *Recalling* its resolution of 24 January 1957 [S/3779], its previous resolutions and the resolutions of the United Nations Commission for India and Pakistan on the India-Pakistan question,

“ 1. *Requests* the President of the Security Council, the representative of Sweden, to examine with the Governments of India and Pakistan any proposals which, in his opinion, are likely to contribute towards the settlement of the dispute, having regard to the previous resolutions of the Security Council and of the United Nations Commission for India and Pakistan ; to visit the sub-continent for this purpose ; and to report to the Security Council not later than 15 April 1957 ;

“ . . . ”

At the 774th meeting on 21 February 1957, the representative of Pakistan\* stated that the sole purpose of his proposal for the introduction of a United Nations force had been to facilitate the withdrawal of Pakistani troops so that the process of demilitarization could be completed thereafter in accordance with the terms of the resolution of the United Nations Commission for India and Pakistan. In a sense, the introduction of a United Nations force would amount merely to an augmentation of the United Nations observers. It would thus be tantamount to “ a use of those procedures which have so far been followed with some success under Chapter VI of the Charter ”.

At the same meeting, the joint draft resolution<sup>85</sup> sub-

Charter requires the consent of the States in which the force is to operate. Moreover, such use must be undertaken and developed in a manner consistent with the principles mentioned under (a) above. It must, furthermore, be impartial, in the sense that it does not serve as a means to force settlement, in the interest of one party, of political conflicts or legal issues recognized as controversial. (c) United Nations actions must respect fully the rights of Member States recognized in the Charter, and international agreements not contrary to the aims of the Charter, which are concluded in exercise of those rights.” [A/3512, *Report of the Secretary-General in pursuance of General Assembly resolution 1123 (XI)*, G.A.O.R., 11th session, Annexes, a.i. 66, Part two, A, para. 5, p. 47.]

<sup>82</sup> 773rd meeting : paras. 124-125.

<sup>83</sup> 773rd meeting : para. 126.

<sup>84</sup> S/3792 and Corr.1, 773rd meeting : para. 130.

<sup>85</sup> S/3793, O.R., 12th year, Suppl. for Jan.-Mar. 1957, p. 9.

<sup>81</sup> In his report, the Secretary-General stated : “ . . . it would seem that the following points are generally recognized as non-controversial in the determination of the limits within which the activities of the United Nations can be properly developed. Within their scope, positive United Nations measures in the present issue, rendered possible by full compliance with the General Assembly resolutions, can be and have to be developed, which would represent effective progress toward the creation of peaceful conditions in the region. (a) The United Nations cannot condone a change of the *status juris* resulting from military action contrary to the provisions of the Charter. The Organization must, therefore, maintain that the *status juris* existing prior to such military action be re-established by a withdrawal of troops, and by the relinquishment or nullification of rights asserted in territories covered by the military action and depending upon it. (b) The use of military force by the United Nations other than that under Chapter VII of the

mitted by Australia, the United Kingdom and the United States was adopted by 10 votes in favour and none against, with 1 abstention.<sup>86</sup>

CASE 11.<sup>87</sup> THE INDIA-PAKISTAN QUESTION: In connexion with the joint draft resolution submitted by Australia, Cuba, the United Kingdom and the United States and the USSR and Colombian amendments thereto: voted upon and rejected on 20 February 1957; with the joint draft resolution submitted by Australia, the United Kingdom and the United States: voted upon and adopted on 21 February 1957; and with the joint draft resolution submitted by Australia, Colombia, the Philippines, the United Kingdom and the United States and the Swedish amendments thereto: voted upon and adopted on 2 December 1957

[Note: During the consideration of draft resolutions submitted to the Council, objections were raised by the representative of India to those provisions of their preambles in which the previous resolutions of the Council and the United Nations Commission for India and Pakistan had been recalled. In this connexion, it was argued that resolutions adopted by the Council under Chapter VI of the Charter were recommendations not constituting decisions binding on the parties. In view of these contentions, amendments were submitted at the 770th and 771st meetings by the USSR and Colombia to the joint draft resolution submitted by Australia, Cuba, the United Kingdom and the United States. On 20 February 1957, these amendments were rejected and the joint draft resolution was not adopted. Subsequently, a joint draft resolution, submitted by Australia, the United Kingdom and the United States, was adopted on 21 February 1957. To a joint draft resolution submitted on 18 November 1957 by Australia, Colombia, the Philippines, the United Kingdom and the United States, Sweden submitted amendments taking into account India's objections. The draft resolution as amended was adopted.]

At the 761st meeting on 16 January 1957, the representative of Pakistan\* requested the Security Council to spell out, under Article 37(2) of the Charter, the obligations of the parties under the terms of the international agreement for a plebiscite as embodied in the United Nations resolutions, and pointed out that Pakistan recognized with regard to the State of Jammu and Kashmir only those international obligations it had

voluntarily accepted together with the Government of India in the resolutions of the United Nations Commission for India and Pakistan dated 13 August 1948 and 5 January 1949.

At the 767th meeting on 8 February 1957, the representative of India\* contended that his Government was bound only by the engagements to which it had become a party since 22 December 1947, apart from the general obligations of international law. He observed that "a number of resolutions have been passed by the Security Council, and none of these are resolutions of a character which may be called that of international engagements" except the two resolutions to which the representative of Pakistan had referred. The remainder were by way of adjuration and, "to the extent that they are under Chapter VI of the Charter, they are not binding upon the people concerned. They are by way of recommendation." The representative of India asked further what was the obligatory nature of actions taken under Chapter VI of the Charter? He observed that "an important stage" had been reached by the San Francisco Conference with Article 37 of the Charter. Under this Article,

"The Council may recommend terms of settlement, but it does not have the power to compel the parties to accept the terms. It has the power to enforce its decisions only after it is determined under the provisions of Chapter VII that a threat to the peace exists."

The only binding decisions the Security Council could make, the representative of India added, were the decisions under Chapter VII of the Charter.

At the 768th meeting on 15 February 1957, a joint draft resolution<sup>88</sup> was submitted by Australia, Cuba, the United Kingdom and the United States, in which it was provided:

"The Security Council,

"Recalling its resolution of 24 January 1957 [S/3779], its previous resolutions and the resolutions of the United Nations Commission for India and Pakistan on the India-Pakistan question, [preamble, para. 1]

"...

"1. Requests the President of the Security Council, the representative of Sweden, to examine with the Governments of India and Pakistan proposals which, in his opinion, are likely to contribute to the achievement of demilitarization or to the establishment of other conditions for progress towards the settlement of the dispute, having regard to the previous resolutions of the Security Council and of the United Nations Commission for India and Pakistan, and bearing in mind the statements of the representatives of the Governments of India and Pakistan ...

"..."

At the 770th meeting on 18 February 1957, the representative of the USSR submitted amendments<sup>89</sup> to the

<sup>86</sup> 774th meeting: para. 79.

<sup>87</sup> For texts of relevant statements, see:

761st meeting: Pakistan\*, paras. 109, 115;

767th meeting: India\*, paras. 91-94;

768th meeting: Philippines, para. 110;

769th meeting: India\*, para. 120;

770th meeting: USSR, para. 145;

771st meeting: Colombia, para. 2;

773rd meeting: India\*, para. 111;

774th meeting: India\*, paras. 30-31; USSR, para. 44;

<sup>88</sup> S/3787, O.R., 12th year, Suppl. for Jan.-Mar. 1957, pp. 7-8.

<sup>89</sup> S/3789, O.R., 12th year, Suppl. for Jan.-Mar. 1957, p. 8.

joint draft resolution : (1) to replace the preamble by the following text:

“*Having heard* the statements of the representatives of the Governments of India and Pakistan.”

and (2) to amend paragraph 1 of the operative part to read as follows :

“1. *Requests* the President of the Security Council, the representative of Sweden, to examine with the Governments of India and Pakistan the situation in respect of Jammu and Kashmir, and to consider the progress that can be made towards the settlement of the problem, bearing in mind the statements of the representatives of the Governments of India and Pakistan ;

“...”

At the 771st meeting on 18 February 1957, the representative of Colombia submitted amendments<sup>90</sup> to the joint draft resolution : (1) to replace the preamble by the following text :

“*The Security Council,*

“*Recalling* its previous resolutions and the letter addressed to the President of the United Nations Commission for India and Pakistan on 20 August 1948, by India’s Prime Minister [S/1100, para. 78] ;”

and (2) to amend paragraph 1 of the operative part to read as follows :

“*Requests* the President of the Security Council, the representative of Sweden, to examine with the Governments of India and Pakistan proposals, which, in his opinion are likely to contribute to the achievement of the provisions contemplated in the resolutions of 13 August 1948 [S/1100, para. 75], and 5 January 1949 [S/1196, para. 15], of the United Nations Commission for India and Pakistan or to the establishment of other conditions for progress towards the settlement of the problem, bearing in mind the statements of the representatives of the Governments of India and Pakistan . . . ;

“...”

In explanation of his amendment, the representative of Colombia observed that it seemed to him that it would not be proper for the preamble to say merely : “*Having heard* the statements of the representatives . . .” because that would mean “ignoring, forgetting or revising what the Council has done”. If the Council wished to arrive at a solution, it was logical simply to refer to the earlier resolutions “without mentioning any of them specifically”. It did not seem indispensable to mention any particular resolution. By contrast, however, it was necessary to mention the letter of 20 August 1948 addressed by the Prime Minister of India to the United Nations Commission for India and Pakistan. This letter provided “the only reason which entitles us to insist on a plebiscite”.

At the 773rd meeting on 20 February 1957, the repre-

sentative of India\* stated that India had come to the Security Council under Chapter VI of the Charter and, therefore, the only procedures that could be adopted were pacific procedures. The essence of pacific procedures was mutual consent. The Security Council, since 20 January 1948, had time after time passed resolutions which India had not been able to accept. The sponsors had been informed that India had been unable to accept them but the Security Council

“... continued to pass resolutions without any reference to conciliation, without any reference to the possibility of acceptance, and, what is more, in this particular case a draft resolution has been presented which largely embodies the proposals that have been put forward by one side. This is not calculated to bring about a settlement . . .”

At the same meeting, the USSR and Colombian amendments were rejected.<sup>91</sup>

The joint draft resolution submitted by Australia, Cuba, the United Kingdom and the United States was not adopted. There were 9 votes in favour and 1 against, with 1 abstention (the negative vote being that of a permanent member).<sup>92</sup>

At the same meeting, Australia, the United Kingdom and the United States submitted a joint draft resolution<sup>93</sup> which read :

“*The Security Council,*

“*Recalling* its resolution of 24 January 1957 [S/3779], its previous resolutions and the resolutions of the United Nations Commission for India and Pakistan on the India-Pakistan question,

“1. *Requests* the President of the Security Council, the representative of Sweden, to examine with the Governments of India and Pakistan any proposals which, in his opinion, are likely to contribute towards the settlement of the dispute, having regard to the previous resolutions of the Security Council and of the United Nations Commission for India and Pakistan ; to visit the sub-continent for this purpose ; and to report to the Security Council not later than 15 April 1957 ;

“2. *Invites* the Governments of India and Pakistan to co-operate with him in the performance of these functions ;

“3. *Requests* the Secretary-General and the United Nations Representative for India and Pakistan to render such assistance as he may request.”

At the 774th meeting on 21 February 1957, the representative of India\* contended that the only resolutions in which his Government felt “engaged” were those it had accepted, for resolutions passed by the Council under Chapter VI “have no binding effect upon Member States unless they consent”. India had rejected them, and the

<sup>91</sup> 773rd meeting : paras. 124-125.

<sup>92</sup> 773rd meeting : para. 126.

<sup>93</sup> S/3792 and Corr.1, 773rd meeting : para. 130.

<sup>90</sup> S/3791/Rev.1 and Corr.1, O.R., 12th year, Suppl. for Jan.-Mar. 1957, pp. 8-9.

United Nations Commission for India and Pakistan, after the rejection, "had proceeded on the basis" that India "had not accepted them". The Government of India regretted the unnecessary pinpointing of the resolution of 24 January 1957 in the preamble of the joint draft resolution, especially as the generic phrase "its previous resolutions" had been set out. The same applied to the words "having regard to the previous resolutions of the Security Council".

"... the Security Council must have regard to its own resolutions, but so far as Member States which are not members of the Security Council are concerned, when proceedings under Chapter VI are being pursued, its relevance to them is based only upon consent..."

The representative of the USSR pointed out that the Security Council's problem was "the pacific settlement of the Kashmir question in keeping with Chapter VI of the United Nations Charter" which provided for the pacific settlement of disputes and excluded any measures of compulsion and "any attempt to impose on one of the parties solutions unacceptable to it". The reference to previous Council decisions which were not acceptable to the Government of India might, therefore, render the task entrusted to the President more difficult.

At the same meeting, the joint draft resolution<sup>94</sup> submitted by Australia, the United Kingdom and the United States was adopted by 10 votes in favour and none against, with 1 abstention.<sup>95</sup>

On 29 April 1957, the representative of Sweden transmitted to the President of the Security Council the report<sup>96</sup> he had prepared in pursuance of the resolution of the Security Council of 21 February 1957.

At the 803rd meeting on 18 November 1957, Australia, Colombia, the Philippines, the United Kingdom and the United States submitted a joint draft resolution<sup>97</sup> in which it was provided :

"The Security Council,

"...

"Observing further that the Governments of India and Pakistan recognize and accept the commitments undertaken by them in the resolutions of the United Nations Commission for India and Pakistan dated 13 August 1948 [S/1100, para. 75] and 5 January 1949 [S/1196, para. 15], which envisage the determination of the future status of the State of Jammu and Kashmir in accordance with the will of the people through the democratic method of a free and impartial plebiscite...; [preamble, para. 4]

"...

"Recalling its previous resolutions and the resolutions of the United Nations Commission for India and

Pakistan on the India-Pakistan question : [preamble, para. 7]

"...

"2. Requests the United Nations Representative for India and Pakistan to make any recommendations to the parties for further action which he considers desirable in connexion with part I of the resolution of the United Nations Commission for India and Pakistan of 13 August 1948, having regard to his third and fifth reports [S/2611 and Corr.1, S/2967] and the report of Mr. Jarring, and to enter into negotiations with the Governments of India and Pakistan in order to implement part II of the Commission's resolution of 13 August 1948, and in particular to reach agreement on a reduction of forces on each side of the cease-fire line to a specific number, arrived at on the basis of the relevant Security Council resolutions and having regard to the fifth report of the United Nations Representative for India and Pakistan ;

"..."

At the same meeting, the representative of the United States pointed out that no final settlement of the Kashmir problem could be reached except on an amicable basis acceptable to both parties. It was quite impossible for the Council "to push any sovereign nation into an action which it refuses to take".

The representative of the United Kingdom observed that the simple fact was that the Security Council "in proceeding under Chapter VI of the Charter, is attempting to find a basis for progress towards a settlement acceptable to both sides". The Council in seeking to make progress towards a settlement, must proceed from the resolutions of the United Nations Commission for India and Pakistan. There was "no question of the Security Council attempting to impose a decision on this point". The joint draft resolution merely reflected publicly announced decisions of the parties themselves.

At the 805th meeting on 21 November 1957, the representative of India\*, after pointing out that the joint draft resolution contained a reference to the resolutions of 13 August 1948 and 5 January 1949, stated that there was "a significant omission" namely, that of the resolution of 17 January 1948. This resolution had been accepted by both parties. It was a "most important resolution", and, had it been observed, there would have been no need for the complaint by the United Nations Commission for India and Pakistan that Pakistan "had used that period for building up its forces". Therefore, if there were no reference to the resolution of 17 January 1948, "then the other resolutions have no effect". The representative of India stated further that he was authorized by the Government of India to say that it was "totally opposed" to the joint draft resolution. India had brought its complaint to the Council under Chapter VI, under which "no resolutions have any value that do not contain the element of conciliation. There must be either agreement between the parties or hope of agreement between the parties." He contended further that the discussion in the Security Council had shown that the joint draft resolution in fact served the interests of only one party, Pakistan, and did

<sup>94</sup> S/3793, O.R., 12th year, Suppl. for Jan.-Mar. 1957, p. 9.

<sup>95</sup> 774th meeting : para. 79.

<sup>96</sup> S/3821, O.R., 12th year, Suppl. for Apr.-June 1957, pp. 12-16.

<sup>97</sup> S/3911, O.R., 12th year, Suppl. for Oct.-Dec. 1957, pp. 11-12.

not take India's position into account, since it attempted "to impose quite unacceptable conditions on India". These endeavours were at sharp variance with the provisions of the Charter regarding the peaceful settlement of disputes between States, which excluded "the possibility of imposing any decision on a State Member of the United Nations".

At the 807th meeting on 28 November 1957, the representative of Sweden submitted the following amendment<sup>98</sup> to the joint draft resolution :

"1. In the fourth paragraph of the preamble delete the words 'commitments undertaken by them in' and insert instead 'provisions of its resolution dated 17 January 1948 and of';

"In the same paragraph insert between the words 'envisage' and 'the determination' the words 'in accordance with their terms'.

"2. Replace operative paragraph 2 by the following text :

"Requests the United Nations Representative for India and Pakistan to make any recommendations to the parties for further appropriate action with a view to making progress toward the implementation of the resolutions of the United Nations Commission for India and Pakistan of 13 August 1948 and 5 January 1949 and toward a peaceful settlement.'

"..."

At the 808th meeting on 2 December 1957, the amendments submitted by the representative of Sweden were adopted by 10 votes in favour and none against, with 1 abstention.<sup>99</sup>

At the same meeting, the joint draft resolution<sup>100</sup> submitted by Australia, Colombia, the Philippines, the United Kingdom and the United States as amended was adopted by 10 votes in favour and none against, with 1 abstention.<sup>101</sup>

**CASE 12.**<sup>102</sup> **THE PALESTINE QUESTION:** In connexion with letters dated 4 December 1958 and 26 January 1959 from the permanent representative of Israel addressed to the President of the Security Council (S/4123 and S/4151 and Corr.1) concerning incidents on the Israel-Syrian border

[*Note:* During the consideration of the Israel complaint concerning aggression by armed forces of the United Arab Republic on the Syrian border on 23 January 1959, discussion arose concerning the relation

<sup>98</sup> S/3920.

<sup>99</sup> 808th meeting : para. 8.

<sup>100</sup> S/3922, *O.R.*, 12th year, *Suppl. for Oct.-Nov. 1957*, pp. 21-22.

<sup>101</sup> 808th meeting : para. 17.

<sup>102</sup> For texts of relevant statements, see :

845th meeting (PV) : Canada, p. 81 ; China, pp. 87-90 ; Italy, pp. 66-67 ; Israel\*, pp. 32-35, 93-95 ; Japan, pp. 56-60 ; Panama, p. 91 ; USSR, pp. 68-75 ; United Arab Republic, pp. 36, 41 ; United Kingdom, p. 51 ; United States, pp. 51-55.

between the right of a State to bring a question to the attention of the Security Council and the obligation of resort to local machinery established by the parties under the auspices of the United Nations.]

At the 845th meeting on 30 January 1959, the representative of Israel\*, referring to Articles 34 and 35 of the Charter in justification of his Government's resort to the Security Council, declared that there was no need to prove that the continuation of constant firing by Syrian forces into Israel territory was "likely to endanger international peace and security". To deny "the preventive element in the responsibility" of the Council would be to do injury both to Middle Eastern peace and to the utility and prestige of the United Nations system.

The representative of the United Arab Republic\* contended that the Council was faced with a local incident which fell within the competence of the Mixed Armistice Commission in accordance with article VII of the General Armistice Agreement between Israel and Syria. The Security Council, therefore, "should not have been seized of this question". Articles 34 and 35 of the Charter gave certain powers to the Council, but when there was a body created by agreement of both parties, under the auspices of the Council, it was necessary to utilize that body, particularly for an incident of the kind before the Council. It was the established practice of the Council to support the implementation of the Armistice Agreement and to give the Mixed Armistice Commission the opportunity of examining complaints of this kind.

The representative of the United Kingdom pointed out that the Security Council had a special responsibility in connexion with the situation on the borders between Israel and its Arab neighbours. He did not wish to question the right of Israel to come to the Security Council when in its opinion the general situation along any particular border became so serious that this course was essential. On the other hand, the machinery on the spot established by the United Nations to supervise the working of the Armistice Agreements and to deal with incidents locally must not be overlooked.

The representative of the United States expressed the view that any country had the right to bring a complaint to the Security Council at any time. In the instant case, however, specific United Nations machinery had been established in the area, and was available and fully competent to deal with just such incidents. The United States could, therefore, not agree that it was proper to resort to the Security Council in the first instance. Most such cases could be decided in the area by appropriate use of the United Nations machinery. Moreover, through a detailed examination by the United Nations agencies in the area, including the Mixed Armistice Commission, the Council would undeniably be placed in a much better position to form a judgement on the merits of the case and to deal with it effectively. Departure from this principle tended "to establish a precedent which could lead to progressive atrophy of the local United Nations machinery. This could have grave consequences for the maintenance of peace and stability".

The representative of Japan stated that the parties to any dispute might find practical advantage if they first

of all sought a solution by negotiation or by recourse to regional agencies or arrangements or by other peaceful means of their own choice. This was one of the fundamental principles of the Charter. There might be some benefit if the Security Council should act as "a final resort" in this sense on the basis of full knowledge of all the information available and also of full knowledge of the merits of this information. Therefore, the Mixed Armistice Commission should not be left paralysed, especially since the incidents on the Demarcation Line in particular had seemed to be under its jurisdiction.

The representative of Italy contended that while it was the duty of the Council to call upon the parties to exercise the utmost possible restraint and vigilance so as to prevent the recurrence of similar incidents in future, the desirability should be emphasized of a fuller recourse to the machinery provided in the Armistice Agreement. The right of the parties concerned to appeal to the Security Council when they thought a given situation

deserved consideration by the Council should not be questioned, but it appeared that the incidents in question might be properly dealt with primarily by the Armistice machinery.

The representative of Canada, stressing the importance of full utilization of all the existing United Nations machinery, observed that the Security Council's own consideration of such complaints, when that was found necessary, was likely to be rendered more fruitful if preliminary recourse to the Mixed Armistice machinery had clarified those points on which further action by the United Nations might be required.

The representative of China thought that for incidents such as that submitted by Israel, the machinery set up by the United Nations on the spot was more suitable, more efficacious and more expeditious in examining, in making recommendations, in coming to judgements, and in preventing incidents of this kind, whereas use of the Council for such matters was inefficient.

**Chapter XI**

**CONSIDERATION OF THE PROVISIONS OF CHAPTER VII  
OF THE CHARTER**

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## INTRODUCTORY NOTE

Chapter XI does not constitute a review of the action of the Security Council under Chapter VII of the Charter. In principle it presents the instances in the proceedings of the Council in which proposals placed before the Council have evoked discussion regarding the application of Chapter VII.<sup>1</sup>

### **Chapter VII of the Charter : Action with respect to threats to the peace, breaches of the peace, and acts of aggression**

#### *Article 39*

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measure shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

#### *Article 40*

In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.

#### *Article 41*

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

#### *Article 42*

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

#### *Article 43*

1. All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.

2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.

3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and

<sup>1</sup> For observations on the method adopted in the compilation of this chapter, see: *Reper-toire of the Practice of the Security Council 1946-1951*, Introductory Note to chapter VIII, II. Arrangements of chapters X-XII, p. 296.

shall be subject to ratification by the signatory states in accordance with their respective constitutional processes.

#### *Article 44*

When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfilment of the obligations assumed under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces.

#### *Article 45*

In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined, within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee.

#### *Article 46*

Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee.

#### *Article 47*

1. There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.

2. The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any Member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of the Member in its work.

3. The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.

4. The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional sub-committees.

#### *Article 48*

1. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine.

2. Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they are members.

#### *Article 49*

The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

*Article 50*

If preventive or enforcement measures against any state are taken by the Security Council, any other state, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems.

*Article 51*

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

**Part I****CONSIDERATION OF THE PROVISIONS OF ARTICLES 39-40 OF THE CHARTER****NOTE**

During the period under review, the only question in connexion with which a draft resolution related to Article 39 was submitted to the Council was the Palestine question.<sup>2</sup> The resolution<sup>3</sup> adopted on that occasion recalled the Council's resolutions of 15 July 1948 and 11 August 1949 referring to Article 40 and contained preambular language apparently derived from that Article. References<sup>4</sup> to the same resolutions were contained in the decisions taken in connexion with the sub-item of the Palestine question entitled "Status of compliance given to the General Armistice Agreements and the resolutions of the Security Council adopted during the past year".

References<sup>5</sup> to Article 40 or to Chapter VII of the Charter have been made in the course of discussion of proposals to adopt provisional measures. In these instances interest attached to the question whether the powers of the Council under Chapter VII may be exercised for purposes of its decisions under Chapter VI.

During the consideration of a proposal to call an emergency special session of the General Assembly to make appropriate recommendations in connexion with the grave situation created by actions undertaken against Egypt, the question whether the Council had been acting under Chapter VI or VII in dealing with the matter was discussed for its bearing on the validity of the proposal.<sup>6</sup>

<sup>2</sup> See Case 1.

<sup>3</sup> See in chapter VIII, under Palestine question, the resolution of 19 January 1956.

<sup>4</sup> See in chapter VIII, under Palestine question, the resolutions of 4 April 1956 and 4 June 1956.

<sup>5</sup> See in chapter X, Cases 8 and 10.

<sup>6</sup> See chapter VI, Case 2.

<sup>7</sup> See chapter VI, Case 1.

On another occasion,<sup>7</sup> a proposal for action under Chapter VII in respect of a matter which was being dealt with by an emergency special session of the General Assembly was the occasion for discussion of the effect on the responsibility of the Security Council for action under Chapter VII of the fact that the General Assembly was dealing with the question.

Section C of the tabulation in part III of chapter X lists instances of the submission of other questions in which language derived from Article 39 was employed.

CASE 1.<sup>8</sup> THE PALESTINE QUESTION: In connexion with the decision of 19 January 1956 condemning the attack by Israel armed forces in the area east of Lake Tiberias

[*Note*: A proposal that the attack should be determined to constitute an aggression within the meaning of Article 39 was not voted upon. The resolution adopted mentioned no Article of the Charter, but provided that if Israel did not comply with its obligations in the future, the Council would consider "what further measures under the Charter" would be required "to maintain or restore the peace".]

At the 709th meeting on 22 December 1955, the representative of Syria submitted a draft resolution,<sup>9</sup> in the

<sup>8</sup> For texts of relevant statements, see:

709th meeting: Syria, paras. 41-43;

710th meeting: France, paras. 71-75; USSR, para. 98; United Kingdom, para. 37; United States, para. 56;

711th meeting: Iran, paras. 48, 53;

714th meeting: Iran, paras. 45, 48; USSR, paras. 56, 96-97; United Kingdom, paras. 89-91, 102; Yugoslavia, para. 7;

715th meeting: Iran, paras. 86, 92; USSR, para. 162; United Kingdom, paras. 111-112.

<sup>9</sup> 709th meeting: para. 43, S/3519, O.R., 10th year, Suppl. for Oct.-Dec. 1955, pp. 41-42.

preamble of which the Council would have recalled its cease-fire resolution of 15 July 1948 and its resolutions of 24 November 1953 and 29 March 1955 concerning the Qibya and Gaza incidents respectively. After noting that the Council had called upon Israel to take effective measures to prevent the recurrence of such military action, and expressing deep concern that Israel had not heeded these Council resolutions, and after considering also that further military action by Israel would tend to disturb the peace and security of the area, the following operative paragraphs were proposed :

“ *The Security Council,*

“ . . .

“ 1. *Condemns* Israel for the outrageous attack which was carried out by its military forces on 12 December 1955 against the territory and armed forces of Syria :

“ 2. *Decides* that the said action is a violation of the resolution of 15 July 1948, the Syrian-Israel Armistice Agreement and Israel's obligations under the Charter :

“ 3. *Decides further* that the said armed attack constitutes an aggression under the provisions of Article 39 of the Charter :

“ 4. *Calls upon* the Members of the United Nations to adopt the necessary measures for applying economic sanctions against Israel :

“ 5. *Decides* to expel Israel from the United Nations under Article 6 of the Charter for her persistent violation of the principles of the Charter :

“ 6. *Decides* that Israel should pay adequate compensation for the loss of and damage to life and property caused by the said attack :

“ 7. *Requests* the Secretary-General of the United Nations to render to the Security Council progress reports on the implementation of this resolution.”

By letter <sup>10</sup> dated 9 January 1956, the representative of the USSR requested the President of the Security Council, in accordance with rule 38 of the rules of procedure of the Council, to put the Syrian draft resolution to the vote together with the USSR amendments submitted in that letter which proposed the deletion of operative paragraphs 3, 4 and 5 of the Syrian draft resolution and their replacement by the following paragraphs :

“ 3. *Calls upon* Israel to take all necessary measures to prevent such actions :

“ 4. *Warns* Israel that any future recurrence of such actions will bring about a situation requiring the Security Council to consider the question of the application of Article 39 of the United Nations Charter.”

At the 710th meeting on 12 January 1956, the Council also had before it a joint draft resolution <sup>11</sup> submitted by

France, the United Kingdom and the United States. After an operative paragraph condemning the Israel attack as a flagrant violation of the cease-fire provisions of the Council resolution of 15 July 1948, of the terms of the General Armistice Agreement between Israel and Syria, and of Israel's obligations under the Charter, the joint draft resolution included the following paragraphs :

“ *The Security Council,*

“ . . .

“ *Expresses* its grave concern at the failure of the Government of Israel to comply with its obligations ;

“ *Calls upon* the Government of Israel to do so in the future, in default of which the Council will have to consider what further measures are required to maintain or restore the peace ;”

At the same meeting, the representative of France, speaking in support of the joint draft resolution, stated that the operation carried out by Israel armed forces on 12 December 1955 had been “ an aggressive act by its very nature . . . an act of such a nature as to come as close as possible to a breach of the peace ”. However, the military action had been limited in duration and scope and was not intended to open general hostilities against Syria. He added :

“ . . . That is the only reason why it does not fall within the scope of Chapter VII of the Charter. It was by only a very slight margin that the Council escaped having to intervene under Article 39 and the following articles of the Charter.

“ It is fortunate, certainly, that we have not been reduced to that extremity. The Security Council must nevertheless draw the inference of this case, and give the parties a solemn warning of the serious danger to peace which further incidents like those just past would involve.”

He further remarked that the three-Power draft resolution which condemned Israel for its military action, also expressed “ concern for the future ” and made it clear “ that military action of this kind is to be condemned, whether or not undertaken by way of retaliation ”. He also contended that “ the Council whose function is to preserve the peace rather than to dispense justice or distribute *a posteriori* condemnation and blame, would be failing in its duty if it did not try to find ways of making it more difficult for such incidents to recur ”.

The representative of the USSR stated that, bearing in mind that Israel had in fact disregarded the Security Council's earlier resolutions of censure for its attacks in Gaza and Qibya, the Council should “ solemnly warn Israel that any recurrence of such actions could bring about a situation requiring the Security Council to consider the question of the application of Article 39 of the Charter ”. This Article, he recalled, “ speaks of action by the Security Council to maintain or restore international peace and security in connexion with breaches of the peace and acts of aggression ”.

<sup>10</sup> S/3528, O.R., 11th year, Suppl. for Jan.-Mar. 1956, pp. 1-2.

<sup>11</sup> S/3530 and Corr.1, O.R., 11th year, Suppl. for Jan.-Mar. 1956, pp. 2-3.

At the 711th meeting on 12 January 1956, the representative of Iran introduced a number of amendments<sup>12</sup> to the joint draft resolution. With reference to the second of the above-quoted paragraphs of the joint draft resolution, he stated that its terms "do not indicate in a sufficiently clear and precise manner the Council's intention to take strong and appropriate action, should there be any repetition of acts of violation of this kind". Accordingly, he proposed the deletion of this paragraph and its replacement by the following :

"Declares that the commission of such acts in the future will constitute a breach of the peace within the meaning of Article 39 of the Charter, requiring consideration by the Security Council of the measures provided for in Chapter VII of the Charter."

At the 714th meeting on 18 January 1956, the representative of Yugoslavia submitted a draft resolution<sup>13</sup> "in the hope that it will render possible a unanimous decision". The second operative paragraph of this draft resolution read as follows :

"2. Calls upon the Government of Israel to refrain from such military action in the future, in default of which the Council will have to consider what other measures provided for in the Charter are required to maintain or restore the peace ;"

At the same meeting, the representative of Iran, when submitting new amendments<sup>14</sup> to the three-Power draft resolution to replace his original amendments, stated :

"The fact that in its resolution the Council will unequivocally state that should Israel fail to comply with its obligations, it will have to consider what further measures are required to maintain or restore the peace, has also given us some satisfaction. My delegation believes that the only interpretation to be placed upon such a provision is that, if Israel commits further violations on the same scale, the Council will consider applying Chapter VII of the United Nations Charter, as would be normal in such a case."

The representative of the USSR, in examining the revised text of the joint draft resolution, inquired whether its sponsors considered that :

"... in the event that Israel again took action similar to the attack on Syrian territory in the vicinity of Lake Tiberias, such action should lead to the consideration by the Security Council of what they describe as 'measures... required to maintain or

restore the peace', and that these measures should include the possible application of Article 39 of the Charter. If that is the case, and we consider that that is our common point of view, this should be reflected in the Council's resolution."

The representative of the United Kingdom, in replying to this question, remarked that, in his view, should Israel fail to comply with its obligations in the future, "the Council would have to consider what further measures were required under the Charter to maintain or restore the peace... of course the possibility of the consideration of the application of Article 39 is in question". He added that it would be redundant and unnecessary to include in the relevant paragraph of the revised joint draft resolution any specific reference to the Charter.

The representative of the USSR proposed that the joint draft resolution should state plainly that the further measures referred to were those provided for in the Charter, thus having the resolution "carry much more weight" and "become much more definite". He contended that the resolution "would indicate how the Council should consider a given action or situation in the event of non-observance of this Council decision".

The representative of the United Kingdom, on behalf of the sponsors of the joint draft resolution, stated that they had agreed<sup>15</sup> to add the words "under the Charter" in the relevant paragraph, which would then read :

"Calls upon the Government of Israel to do so in the future, in default of which the Council will have to consider what further measures under the Charter are required to maintain or restore the peace ;"

At the 715th meeting on 19 January 1956, the representative of Iran expressed the hope "that the Israel Government will in future refrain from the use of force, which would necessarily oblige the Council to consider the application of the provisions of Chapter VII of the Charter".

At the same meeting, the revised joint draft resolution<sup>16</sup> was adopted unanimously.<sup>17</sup>

After the adoption of the resolution, the representative of the USSR drew attention to the relevant paragraph previously quoted, and stated :

"... it will be remembered that the Charter provides for the application of the provisions of Article 39 in the event of a threat to peace and security in any area."

<sup>12</sup> 711th meeting : paras. 48, 53 ; S/3532.

<sup>13</sup> 714th meeting : para. 29 ; S/3536, O.R., 11th year, Suppl. for Jan.-Mar. 1956, pp. 4-5.

<sup>14</sup> 714th meeting : para. 39 ; S/3537, O.R., 11th year, Suppl. for Jan.-Mar. 1956, pp. 5-6.

<sup>15</sup> 714th meeting : para. 102 ; S/3530/Rev.3.

<sup>16</sup> S/3530/Rev.3.

<sup>17</sup> 715th meeting : para. 141 ; S/3538, O.R., 11th year, Suppl. for Jan.-Mar. 1956, pp. 6-7.

## Part II

### \*\*CONSIDERATION OF THE PROVISIONS OF ARTICLE 41 OF THE CHARTER

## Part III

## CONSIDERATION OF THE PROVISIONS OF ARTICLES 42-47 OF THE CHARTER

CASE 2.<sup>18</sup> CABLEGRAM DATED 5 NOVEMBER 1956 FROM THE MINISTER OF FOREIGN AFFAIRS OF THE UNION OF SOVIET SOCIALIST REPUBLICS CONCERNING "NON-COMPLIANCE BY THE UNITED KINGDOM, FRANCE AND ISRAEL WITH THE DECISION OF THE EMERGENCY SPECIAL SESSION OF THE GENERAL ASSEMBLY OF 2 NOVEMBER 1956 AND IMMEDIATE STEPS TO HALT THE AGGRESSION OF THE AFORESAID STATES AGAINST EGYPT": In connexion with the rejection of the provisional agenda on 5 November 1956.

By cablegram <sup>19</sup> dated 5 November 1956, the Minister of Foreign Affairs of the USSR requested the President of the Security Council to call an immediate meeting of the Council to discuss the following question:

"Non-compliance by the United Kingdom, France and Israel with the decision of the emergency special session of the General Assembly of the United Nations of 2 November 1956 and immediate steps to halt the aggression of the aforesaid States against Egypt."

Included in the cablegram was a draft resolution presented "with a view to the adoption of rapid and effective measures for stopping the aggressive war against the Egyptian people". According to the draft resolution, the Security Council considering "the necessity of taking immediate steps to put an end to the aggression launched against Egypt by the United Kingdom, France and Israel", (second preambular paragraph), would consider it essential,

"in accordance with Article 42 of the United Nations Charter, that all States Members of the United Nations, especially the United States of America and the Union of Soviet Socialist Republics, as permanent members of the Security Council having powerful air and naval forces at their disposal, should give military and other assistance to the republic of Egypt, which has been the victim of aggression, by sending naval and air forces, military units, volunteers, military instructors and other forms of assistance, if the United Kingdom, France and Israel fail to carry out this resolution within the stated time limits."

At the 755th meeting on 5 November 1956, the cablegram dated 5 November 1956 from the Minister for

Foreign Affairs of the USSR constituted item 2 of the provisional agenda. After the rejection of the provisional agenda,<sup>20</sup> several representatives explained their vote on grounds related to the substance of the question.

The representative of the USSR stated that the situation in Egypt required immediate action by the United Nations, and that the USSR Government proposed that action should be taken in accordance with Article 42 of the Charter.

The representative of the United Kingdom declared that the Soviet proposal that "all Member States — and especially the United States and the Soviet Union — should combine against the United Kingdom and France, with the approval and blessings of the United Nations . . . is an impossible proposal in terms of the United Nations . . . [which] was founded on the assumption, and its effectiveness was based on the presumption, that there would be unity among these four Great Powers".

The representative of Peru pointed out that the United Nations had reached the stage of carrying out provisional measures, the immediate purpose of which was to prevent the situation from deteriorating. The Security Council could not take any further steps before exhausting these provisional measures and before considering the major obstacles likely to impede their success. The purpose of the USSR proposal to include the item was obviously to circumvent the application of Article 40 of the Charter and, instead, to call for much more drastic measures at a time when peace was being restored and the parties were getting together with a view to a cease-fire and suspension of hostilities.

The representative of the USSR stated that his Government was proposing participation in the aid to be given to the victim of aggression by the forces of all Member States prepared to take part. This proposal was fully in accordance with the Charter. He further contended that the fact that the General Assembly was taking action on any question did not relieve the Security Council of the obligation to act, if the circumstances so demanded. This was emphasized by the fact that the General Assembly could not act under Chapter VII of the Charter. In the case under discussion, when reference was made to the use of armed forces of other Members of the United Nations, the Security Council was dealing with "an 'action' in connexion with a threat to the peace and Article 42 speaks of such action". Any objections based on the Charter were therefore unfounded.

<sup>18</sup> For texts of relevant statements, see:

755th meeting: Peru, para. 60; USSR, paras. 41-42, 67-71.

<sup>19</sup> S/3736, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 128-130.

<sup>20</sup> 755th meeting: para. 27.

## Part IV

## CONSIDERATION OF THE PROVISIONS OF ARTICLES 48-51 OF THE CHARTER

CASE 3.<sup>21</sup> THE PALESTINE QUESTION: In connexion with report of the Secretary-General pursuant to the resolution<sup>22</sup> of 4 April 1956 on the status of compliance given to the general armistice agreements and the resolutions of the Security Council adopted during the past year.

[Note: Article 51 was the subject of discussion in the Council in connexion with communications to and from the Secretary-General referred to in the Secretary-General's report to the Security Council.]

Pursuant to the resolution of 4 April 1956, the Secretary-General on 12 April 1956 transmitted a number of communications<sup>23</sup> to the President of the Security Council; on 2 May he transmitted a letter<sup>24</sup> to the President of the Council containing a preliminary report; and on 9 May he transmitted his final report<sup>25</sup> to the Security Council.

By aide-mémoires<sup>26</sup> and letters<sup>27</sup> dated 11 and 29 April, and 1, 2 and 3 May 1956, exchanged with the Secretary-General, the Governments of Egypt, Israel, Jordan, Lebanon and Syria, while reaffirming their unconditional acceptance of the cease-fire clause of the Egyptian-Israeli, Jordan-Israel, Lebanon-Israel and Syrian-Israeli General Armistice Agreements, reserved the right of self-defence as stipulated in the Charter.

In his letters<sup>28</sup> to the President of the Council and the Foreign Minister of Syria, the Secretary-General noted the reservation of Syria and stated:

"... That reservation in no way detracts from the unconditional undertaking to comply with the provisions of article III, paragraph 2, of the General Armistice Agreement. The term 'self-defence' should therefore be interpreted in conformity with the stipulations of the said paragraph and with the Charter of the United Nations."

A similar interpretation was contained in the aide-

mémoires<sup>29</sup> dated 10 and 11 April 1956, and in his letters<sup>30</sup> dated 1, 2 and 3 May 1956 to the Prime Ministers of Egypt, Israel and Jordan, and to the Foreign Minister of Lebanon.

In his report to the Security Council, the Secretary-General stated:

"44. I have had to accept reservations as to self-defence, which according to Article 51 of the Charter, is an 'inherent right'. However, such a reservation is necessarily of an indeterminate nature. As already indicated, its meaning in a concrete situation can be determined only by the Security Council, as established in the Charter.

"45. The limit set to the effect of the cease-fire assurances by the reservation as to self-defence should, in my view, be so understood as not to bring the reservation into conflict with the substance of the cease-fire assurances themselves. In my replies to the Governments I have thus taken the stand that the reservation could not derogate from the obligations assumed under article II, paragraph 2, of the General Armistice Agreement between Egypt and Israel, or under article III, paragraph 2, of the other armistice agreements.

"46. This qualification also gives rise to questions which it is difficult to answer in hypothetical cases. However, my interpretation makes it clear that the reservation as to self-defence does not permit acts of retaliation, which repeatedly have been condemned by the Security Council."<sup>31</sup>

The report of the Secretary-General was considered by the Security Council at its 723rd to 728th meetings between 29 May and 4 June 1956.

At the 726th meeting on 1 June 1956, the representative of Peru, referring to the report of the Secretary-General, stated:

"The promise to comply with the armistice agreements has not been vitiated by the reservation concerning the right of self-defence which the parties have made in their observations before the Security Council and, previously, to the Secretary-General. This reservation has not affected and cannot affect the obligations arising from the armistice agreements. It follows from the letter and spirit of Article 51 of the Charter that the right of self-defence is a concomitant, let us say, of every juridical institution. It is an inalienable right sanctioned by the Charter, a right originating in natural law, which consequently is of the nature of an institution *per se* and can never be considered contingent upon other obligations."

<sup>21</sup> For texts of relevant statements, see:

723rd meeting: Australia, para. 95;

725th meeting: Israel, paras. 38-39; Jordan, para. 107; Lebanon, para. 151; Syria, para. 7;

726th meeting: Peru, paras. 31-34.

<sup>22</sup> S/3575, O.R., 11th year, Suppl. for Apr.-June 1956, pp. 1-2.

<sup>23</sup> S/3584, O.R., 11th year, Suppl. for Apr.-June 1956, pp. 15-17.

<sup>24</sup> S/3594, O.R., 11th year, Suppl. for Apr.-June 1956, pp. 27-30.

<sup>25</sup> S/3596, O.R., 11th year, Suppl. for Apr.-June 1956, pp. 30-66.

<sup>26</sup> S/3584 (IV), O.R., 11th year, Suppl. for Apr.-June 1956, p. 16.

<sup>27</sup> S/3596, Annex 1, A; Annex 2, A; Annex 3, A; Annex 4, A; O.R., 11th year, Suppl. for Apr.-June 1956, pp. 56-60.

<sup>28</sup> S/3596, Annex 3, C; O.R., 11th year, Suppl. for Apr.-June 1956, pp. 56-60.

<sup>29</sup> S/3584 (V and VI), O.R., 11th year, Suppl. for Apr.-June 1956, p. 17.

<sup>30</sup> S/3596, Annex 1, B; Annex 2, D; Annex 4, B; O.R., 11th year, Suppl. for Apr.-June 1956, pp. 56-61.

<sup>31</sup> S/3596, O.R., 11th year, Suppl. for Apr.-June 1956, p. 41.

The representative of Peru contended further that under the Charter :

“... the right of self-defence does not change the previously existing legal situation. This is a legal consideration to which the Peruvian delegation thinks it advisable to draw attention, because, under the law which existed before the Charter, when once force had been used for purposes of self-defence, the legal provisions which had existed prior to the exercise of force were affected and could be altered. Under our present law, however - - and this strengthens the positions adopted by the Secretary-General - - the right of self-defence is exercised within the jurisdiction of the Council ; it does not alter or restrict the Council's jurisdiction, and the Council remains free to pronounce on that right ...”

Generally, whenever the right of self-defence was exercised and the Council intervened under the Articles of the Charter relating to threats to the peace and breaches of the peace, it might be said that the Council acted to safeguard the previously existing legal position. There was no doubt that, when the interests of peace were involved, the Council had full jurisdiction “with regard to the incidents to which the actual exercise of the right of self-defence may give rise”.

CASE 4.<sup>32</sup> THE TUNISIAN QUESTION (II) : In connexion with the application of Tunisia for the inclusion of the question in the agenda of the Security Council.

[Note : In an explanatory memorandum to the letter<sup>32</sup> dated 29 May 1958, to the President of the Security Council requesting him to call a meeting for the consideration of the question : “ Complaint by Tunisia in respect of acts of armed aggression committed against it since 19 May 1958 by the French military forces stationed in its Territory and in Algeria”, the representative of Tunisia stated : “ In a letter<sup>33</sup> of 13 February 1958, to the President of the Security Council, the representative of Tunisia informed the Security Council of the measures taken by the Tunisian Government in the exercise of its right of self-defence, in accordance with Article 51 of the Charter, following the aggression of Sakiët-Sidi-Youssef”. The Tunisian Government had “ prohibited the French armed forces occupying positions in Tunisia against its wishes from engaging in any troop movements, sending French naval units into Tunisian ports, leading a parachuting reinforcement and flying French military aircraft over Tunisian territory”. It was further stated in the letter of 13 February 1958, that should the French occupation forces “ attempt to violate these provisions, the Tunisian Government would then consider itself in a state of self-defence”.]

At the 819th meeting on 2 June 1958, the repre-

<sup>32</sup> For texts of relevant statements, see :

819th meeting : France, p. 33 ; Tunisia\*, pp. 18-20.

<sup>33</sup> S/4013, O.R., 13th year, Suppl. for Apr.-June 1958, pp. 37-39.

<sup>34</sup> S/3951, O.R., 13th year, Suppl. for Jan.-Mar. 1958, pp. 12-13.

sentative of Tunisia\* enumerated a series of events and incidents in which the French troops stationed in Tunisia and also the French army in Algeria were involved and stated that these events or “ any incidents of some importance ” had been brought to the attention of the Secretary-General by the representative of Tunisia, who had not failed to reserve, if necessary, the right to legitimate self-defence provided for by Article 51 of the Charter, “ should the situation be aggravated as a result of aggressive actions repeated by French forces in Tunisia or coming from Algeria ”.

The representative of France expressed the view that the reference to Article 51 by the Tunisian representative was “ an abusive reference ” designed to justify the whole series of arbitrary decisions taken not only against the French troops in Tunisia, but also against the French civil population and certain consulates of the frontier zone. That reference was also untenable juridically. Article 51

“ only authorizes the exercise of the right of legitimate defence if there has been an armed attack, and authorizes it until the Security Council has taken the measures necessary to maintain international peace and security. This text envisages therefore a single eventuality, that of armed aggression, and that did not exist at the time when Tunisia invoked Article 51, whose terms up to now have been interpreted very strictly. Furthermore, it might be pointed out that the Council had not yet been informed of the matter when the measures in question were taken.”

CASE 5.<sup>35</sup> LETTER DATED 22 MAY 1958 FROM THE REPRESENTATIVE OF LEBANON ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL CONCERNING : “ COMPLAINT BY LEBANON IN RESPECT OF A SITUATION ARISING FROM THE INTERVENTION OF THE UNITED ARAB REPUBLIC IN THE INTERNAL AFFAIRS OF LEBANON, THE CONTINUANCE OF WHICH IS LIKELY TO ENDANGER INTERNATIONAL PEACE AND SECURITY ” : In connexion with : the United States draft resolution of 15 July 1958 ; and with the Japanese draft resolution of 21 July 1958 voted upon and rejected on 22 July 1958.

[Note : The request by the Government of Lebanon to the Government of the United States and the sub-

<sup>35</sup> For texts of relevant statements, see :

827th meeting (PV) : Lebanon\*, pp. 43-45 ; USSR, p. 56 ; United States, pp. 26-30 ;

828th meeting (PV) : Canada, p. 7-10 ; France, p. 6 ; United Arab Republic\*, p. 17 ;

829th meeting (PV) : USSR, p. 27 ; United States, pp. 11-15, 32 ;

830th meeting (PV) : Sweden, pp. 21-25 ; United Arab Republic\*, p. 3 ;

831st meeting (PV) : China, p. 53 ; Jordan\*, p. 12 ; United Kingdom, pp. 13-16 ; United Arab Republic\*, pp. 55-57 ;

832nd meeting (PV) : Jordan\*, pp. 26-30 ;

833rd meeting (PV) : Lebanon\*, p. 6 ;

836th meeting (PV) : Lebanon\*, pp. 3-5.



sequent request by the Government of Jordan<sup>36</sup> to the Governments of the United Kingdom and the United States for military help so as to preserve Lebanon's and Jordan's territorial integrity and political independence gave rise to discussion whether those requests as well as the help rendered were in accordance with the provisions of Article 51 of the Charter.]

At the 827th meeting on 15 July 1958, the representative of the United States stated that the request from the Government of Lebanon to another Member of the United Nations to come to its assistance was entirely consistent with the provisions and purposes of the United Nations Charter. The United States was acting pursuant to what the Charter regarded as an inherent right, the right of all nations to work together to preserve their independence. The United Nations, if it were to succeed in its efforts to maintain international peace and security, should support the efforts "of the legitimate and democratically elected Government to protect itself from aggression from without, even if that aggression is indirect". The United Nations had sought to provide means for dealing with such "aggressive developments" in the future when in 1949 and 1950 the General Assembly had adopted the Essentials of Peace and Peace through Deeds resolutions. The representative of the United States quoted the following provisions of the latter resolution:

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

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

"2. Determines that for the realization of lasting peace and security it is indispensable: (1) that prompt united action be taken to meet aggression wherever it arises;"

and stated that this resolution "applies very definitely" to the situation confronting the Council.

The representative of Lebanon\* contended that in the face of the danger which threatened the independence of Lebanon and to maintain international peace and security in the Middle East, pending the fulfilment of the action which it had requested the Council to take, the Government of Lebanon had "decided to implement Article 51 of the Charter" which recognized the right of self-defence, individual or collective, and it had requested the direct assistance of friendly countries.

The representative of the USSR stated that the Charter "provides for the right to individual or collective self-defence if there is an armed attack upon a Member of the United Nations, pending action by the Security Council in defence of international peace and security". With regard to the question before the Council, the situation, however, was entirely different. The Security Council

"... is already acting. It has taken a decision which allows for the settlement of the situation inside the country. Nobody has attacked Lebanon and there is not even a threat of an armed attack in Lebanon. It is obvious that this reference to the Charter has absolutely no relevance to this case..."

At the 828th meeting on 15 July 1958, the representative of France referred to the decision of the United States to reply immediately to the appeal of the Government of Lebanon to other Members of the United Nations for support and declared that in the view of the Government of France this decision was "justified under the provisions of Article 51 of the Charter".

The representative of the United Arab Republic\* stated that it seemed "that Article 51... does not even allow" for the unilateral decision of the Government of the United States to intervene. Article 51 "demands armed aggression as a condition". There was further a decision of the Council which should be carried out and which was being carried out by the United Nations Observation Group in Lebanon.

At the 829th meeting on 16 July 1958, the Security Council had before it a draft resolution,<sup>37</sup> submitted by the United States, preambular paragraphs 3 and 4 of which read:

"The Security Council,

"...

"Recalling that the 'Essentials of Peace' resolution of the General Assembly of 1 December 1949 calls upon States to refrain from any threats or acts, direct and indirect, aimed at impairing the freedom, independence or integrity of any State, or at fomenting civil strife and subverting the will of the people of any State,

"Recalling that the 'Peace through Deeds' resolution of the General Assembly of 18 November 1950 condemned 'intervention of a State in the internal affairs of another State for the purpose of changing its legally established government by the threat or use of force' and solemnly reaffirms that 'whatever weapons used, any aggression, whether committed openly or by fomenting civil strife in the interest of a foreign power, or otherwise, is the gravest of all crimes against peace and security throughout the world',

"..."

The representative of the United States noted that mention of these resolutions was relevant because it reminded the Council that the United Nations must meet and deal effectively with the problem of indirect aggression. The integrity and independence of a nation was as precious when "it is attacked from outside by subversion and erosion as when it is attacked in the field of military action".

The representative of the USSR pointed out that the Charter provided "specifically" that the right of self-defence "is enjoyed when there is a direct attack, when a State is threatened from outside". However, neither

<sup>36</sup> See chapter VIII, pp. 121-128.

<sup>37</sup> S/4050 and Rev.1.

the Council nor any other organ of the United Nations had noted that such a situation had prevailed in Lebanon and it had not done so because this situation did not exist.

At the 830th meeting on 16 July 1958, the representative of Sweden stated that when the Council proceeded to consider the question before it in the new situation created by the request of the Government of Lebanon to the Government of the United States for military assistance to maintain Lebanon's territorial integrity and political independence, two aspects must be kept apart. Citing Article 2(7), he observed, first, that a decision of one State to request assistance from another in order to stabilize the internal situation in the former, was not a question falling directly within the jurisdiction of the United Nations. On the other hand, it had been stated that the United States had acted in accordance with the principle expressed in the Charter on collective self-defence. It was "apparently considered that measures have been taken in accordance with Article 51, or at least in the spirit of this Article". According to the Charter, measures of this kind came under the examination of the Council. One of the conditions

"... for Article 51 to be applicable is that an armed attack has occurred against a Member State. The Swedish Government does not consider that this condition has been fulfilled in the present case, nor does my Government consider that there is an international conflict in the terms of Article 51."

At the 831st meeting on 17 July 1958, the representative of Jordan\* stated that faced with a threat to its integrity and independence through imminent foreign aggression and an attempt by the United Arab Republic to create internal disorder and to overthrow the existing regime, the Jordan Government, in accordance with the provisions of Article 51, had requested the Governments of the United Kingdom and the United States to come to its immediate help.

The representative of the United Kingdom contended that there was nothing either in the Charter or in the established rules of international law to inhibit a Government from asking a friendly Government for military assistance as a defensive measure when it considered itself to be in danger. Nor was there anything to inhibit the Government thus appealed to from responding. He stated further that the method of indirect aggression, "the method of subversion and the attempt to overthrow the constituted authority can be just as dangerous as the open variety". This was the common factor linking the situation in Jordan and Lebanon, "the factor of indirect aggression".

The representative of China contested the interpretation of Article 51 by the representative of Sweden who "would limit the application of Article 51 to cases of direct aggression". In his view, in the present period of world history "indirect aggression is as dangerous as direct aggression".

The representative of the United Arab Republic\* observed that in his belief the statement of the representative of Sweden on the applicability of Article 51 was "a very accurate interpretation" of the Charter.

At the 833rd meeting on 18 July 1958, the representative of Lebanon\* stated that

"Article 51 does not speak of direct armed attack. It speaks of armed attack. It wishes to cover all cases of attack, direct or indirect, so long as it is an armed attack... is there any difference from the point of view of the effects between direct armed attack or indirect armed attack if both of them are armed and if both of them are designed to menace the independence of a country? ... if both of them are designed to suppress the independence of a country or could even threaten that independence? What difference is there between armed soldiers in uniform attacking a given region in a given country and these same troops still armed but without uniforms infiltrating secretly this area in order to regroup themselves there and then start hostilities, the same type of hostilities as those which would be started by uniformed troops? ... this distinction between direct armed attack and indirect armed attack is strictly fictitious."

At the 834th meeting on 18 July 1958, the United States revised draft resolution<sup>38</sup> was not adopted. There were 9 votes in favour, 1 against with 1 abstention (the negative vote being that of a permanent member).<sup>39</sup>

At the 835th meeting on 21 July 1958, the representative of Japan submitted a draft resolution<sup>40</sup> in which it was provided:

"The Security Council,

"...

"1. Requests the Secretary-General to make arrangements forthwith for such measures in addition to those envisaged by the resolution of 11 June 1958, as he may consider necessary in the light of present circumstances, with a view to enabling the United Nations to fulfil the general purpose established in that resolution, and which will, in accordance with the Charter, serve to ensure the territorial integrity and political independence of Lebanon, so as to make possible the withdrawal of United States forces from Lebanon;

"..."

At the 836th meeting on 22 July 1958, the representative of Lebanon\* stated that the Government of Lebanon had been of the opinion that the first action taken by the Security Council on 11 June 1958 might suffice in order to cope with the situation as it had existed at that time, but when experience had shown that this action had been inadequate to cope with the situation and when the danger had begun to threaten the independence and the territorial integrity of Lebanon, the Government, not having been able to protect itself against this threat, had had "to have recourse to Article 51 of the Charter and to request the assistance of friendly countries". At that time, Lebanon also had

<sup>38</sup> S/4050/Rev.1.

<sup>39</sup> 834th meeting (PV): p. 46.

<sup>40</sup> S/4055.

requested the assistance of the United Nations. The Government of Lebanon, which had had recourse to "the implementation of Article 51", would "not be prepared to abandon the application of Article 51 nor to deprive ourselves of this aid", unless the action taken by the United Nations was adequate to achieve the two goals stated in the Japanese revised draft resolution, i.e., the cessation of the infiltration of armed men and the sending of arms through the Lebanese frontiers as well

as the maintenance of the territorial integrity and political independence of Lebanon.

At the 837th meeting on 22 July 1958, the Japanese revised draft resolution<sup>41</sup> was not adopted. There were 10 votes in favour and 1 against (the negative vote being that of a permanent member).<sup>42</sup>

<sup>41</sup> S/4055/Rev.1.

<sup>42</sup> 837th meeting (PV) : pp. 7-10.

**Chapter XII**

**CONSIDERATION OF THE PROVISIONS OF OTHER ARTICLES  
OF THE CHARTER**

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## INTRODUCTORY NOTE

Chapter XII covers the consideration by the Security Council of Articles of the Charter not dealt with in the preceding chapters.<sup>1</sup>

### Part I

## CONSIDERATION OF THE PROVISIONS OF ARTICLE 2 OF THE CHARTER

### A. Article 2 (4) of the Charter

4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations.

**CASE 1.<sup>2</sup> THE SITUATION IN HUNGARY :** In connexion with the decision of 28 October 1956 adopting the agenda.<sup>3</sup>

At the 746th meeting on 28 October 1956, after the inclusion of the item: "The situation in Hungary" in the agenda<sup>4</sup> of the Security Council, the representative of Cuba stated that the situation constituted

"... intervention in the domestic affairs of another State — intervention in the ... form of military action, which the United Nations Charter, in paragraph 4 of Article 2, specifically condemns."

The representative of Peru contended that there were two facts before the Security Council. First, there was the intervention of foreign forces, the technical term for which in international law was "intervention in the domestic affairs of a State", an attack on its sovereignty, on its international personality. This intervention was rendered more serious in that it was part of a "savage campaign of repression now being carried on in Hungary". The fact that the USSR troops stationed, by very flexible interpretation of the Warsaw Pact, in Hungary had been used was

<sup>1</sup> For observations on the method adopted in compilation of this chapter, see: *Repertoire of the Practice of the Security Council, 1946-1951*, Introductory Note to chapter VIII. II. Arrangements of chapters X-XII, p. 296.

<sup>2</sup> For texts of relevant statements, see: 746th meeting: China, para. 126; Cuba, para. 107; Peru, paras. 113-119; USSR, paras. 141, 155-157.

<sup>3</sup> On the inclusion of the question in the agenda, see chapter II, part III.B.1, Case 7.

<sup>4</sup> 746th meeting: para. 35.

"... not only a violation of the general principle of non-intervention, the very foundation of modern international law, and of the principles of the Charter, particularly Article 2, paragraph 4, which establishes the obligation to refrain from the use of force against any State,"

but was also a violation of article 8 of the Warsaw Pact.

The representative of China observed that the intervention of the Soviet military forces in Hungary constituted

"a flagrant violation of the United Nations Charter, which clearly forbids the use of force against the territorial integrity or political independence of any State."

The representative of the USSR, who had opposed the inclusion of the item in the agenda, maintained that the matter was within the domestic jurisdiction of Hungary, and that the Council was not competent either to discuss the question or to take any decision on it. In drawing attention to "certain obvious distortions" on the situation in Hungary, he stated that "anti-popular elements" supported and directed from outside had arisen in arms against the lawful Hungarian Government, and had succeeded "in drawing to their side a section of the working population which had been led astray by lying propaganda". The Hungarian Government had been compelled to bring armed forces into action and had appealed to the Government of the USSR for assistance. In response to this request, "Soviet military units which were stationed in Hungary in conformity with the Warsaw Pact came to the help of the Hungarian forces and Hungarian workers defending the Hungarian State".

### B. Article 2 (7) of the Charter

7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

CASE 2.<sup>6</sup> THE QUESTION OF ALGERIA: In connexion with a request dated 13 June 1956 that the situation in Algeria be considered by the Security Council.<sup>6</sup>

[*Note:* It was requested that the Security Council should consider the aggravated situation in Algeria which had deteriorated to the extent that the United Nations could not remain indifferent to the threat to peace and security and the infringement of the basic right of self-determination, and to the flagrant violation of the other fundamental human rights. Objection to the inclusion of the matter in the agenda was raised on the grounds of Article 2 (7). Threats to peace and security, it was argued, were not within the purview of the Council unless they related to international peace and security. The provisional agenda was not adopted.]

By letter<sup>7</sup> dated 13 June 1956, the representatives of Afghanistan, Egypt, Indonesia, Iran, Iraq, Jordan, Lebanon, Libya, Pakistan, Saudi Arabia, Syria, Thailand and Yemen requested the President of the Security Council under Article 35 (1) of the Charter, to call a meeting of the Council to consider the grave situation in Algeria. In a memorandum<sup>8</sup> previously submitted to the President of the Security Council by the representatives of sixteen Member States, it had been stated that the situation had deteriorated to the extent that the United Nations could not remain indifferent to the threat to peace and security and the infringement of the basic right of self-determination, and to the flagrant violation of the other fundamental human rights. Since that memorandum had been submitted, the situation in Algeria had further worsened due to the nature and scope of the French military actions which had resulted in grievous loss of human life. For these reasons, it was deemed essential that the Algerian question should be considered by the Security Council without delay.

At the 729th meeting on 26 June 1956, the representative of France, opposing the adoption of the provisional agenda, stated that the French Government considered that Algerian affairs were matters essentially within the domestic jurisdiction of France. His Government remained firmly opposed to any discussion of such domestic affairs by third parties, whether these were the General Assembly or the Security Council. Domestic jurisdiction was ordinarily defined by the exercise of internal sovereignty, and French sovereignty was alone exercised in Algeria. In exercising one of the most normal attributes of domestic sovereignty, France was endeavouring to maintain public order which had been

disturbed by rebellious citizens. It would be the most dangerous of precedents to recognize the right of the United Nations to intervene between the Government of a State and those of its citizens who were disturbing the peace. This was most strictly prohibited under Article 2 (7) of the Charter, which rightly proclaimed the fundamental principle of non-intervention in the domestic affairs of a State. Moreover, the principle of non-intervention was not only embodied in Article 2 (7), but it was found also through Chapters VI and VII of the Charter which contained the qualifying adjective "international" to define the competence of the Security Council. The situation in Algeria was not likely to endanger international peace and security, and not even the authors of the letter which had been submitted to the Council had made that claim since the key word "international" did not appear in its text. As to the other claims contained in the letter, he observed :

"The point is, however, that neither the violation of fundamental human rights nor the denial of the right of self-determination is a matter within the competence of the Security Council. Threats to peace and security are not within the purview of this high forum unless they relate to international peace and security . . ."

The representative of Iran, who favoured the inclusion in the agenda, stated that Article 2 (7) did not apply in this instance. Furthermore, the refusal to allow the people of Algeria the right of self-determination constituted a violation of the Charter, particularly of Article 1 (2). The right of peoples to self-determination which was cited in that paragraph constituted one of the fundamental principles of human rights. The United Nations had previously declared itself to be competent when questions related to the application of human rights had been raised. He further stated :

"In addition, the word 'essentially' which appears in the text of Article 2, paragraph 7, allows a wider interpretation of this Article . . ."

"It is an established fact that any question which has a bearing on violation of human rights, when these violations are of particular importance and are capable of affecting the cordial relations which should exist between the Members of the United Nations, is not essentially within the domestic jurisdiction of a State. As attested by numerous precedents, especially those which I have just cited, the United Nations has always pronounced itself competent as far as questions of this nature are concerned."

Moreover, he observed, the inclusion of the Algerian question in the agenda of the Council was far from constituting an intervention within the meaning of Article 2 (7) :

" . . . The term 'intervene' has a well-defined meaning in international law : it implies an act of interference in the internal and external affairs of another State in order to bring about the performance or non-performance of a specific act. The act of including the Algerian question in the agenda . . . or of examining it or even of making recommendations on it can in no case constitute intervention in the affairs of France. Furthermore, the inclusion of the item in the agenda

<sup>6</sup> For texts of relevant statements, see :

729th meeting : Iran, paras. 79-84, 89 ; France, paras. 29, 95, 100-104 ;

730th meeting : Belgium, para. 61 ; Cuba, paras. 40-42 ; Iran, para. 3 ; United Kingdom, paras. 52-53.

<sup>8</sup> On the inclusion of the question in the agenda, see chapter II, part III.B.1, Case 5.

<sup>7</sup> S/3609, O.R., 11th year, Suppl. for Apr.-June 1956, pp. 74-76.

<sup>8</sup> S/3589 and Add.1, O.R., 11th year, Suppl. for Apr.-June 1956, pp. 25-27. By document S/3589/Add.1 dated 26 April 1956, Thailand was added to the list of signatories.

does not even prejudice the question of competence which can be discussed later, once the problem has been placed on the Council's agenda."

At the 730th meeting on 26 June 1956, the representative of Iran reiterated his view that :

"... questions bearing on violations of human rights were not a matter of purely national concern when those violations reached a certain degree of magnitude and were such as to impair the cordial relations which should exist between Members of the United Nations, and especially when they represented at threat to international peace and security."

The representative of Cuba, after citing Article 2 (7), observed that the case of Algeria was different from the question of Tunisia and the question of Morocco. From the legal point of view, it was clear that Algeria was an overseas province of France. It was very dangerous for the Council to alter the precepts of the Charter, because on such basis no Member State would feel secure in the United Nations. Therefore, he opposed the inclusion of the item in the agenda.

The representative of the United Kingdom agreed that the Council was precluded from considering the Algerian question since to do so would inevitably constitute interference in a matter lying essentially within the domestic jurisdiction of a Member State. The question was, therefore, clearly outside the competence of the Security Council.

After referring to Article 2 (7) as "one of the cardinal principles" of the Charter, he remarked :

"... it is, I think, timely to recall that a number of founder nations without whose co-operation the United Nations could hardly have been brought into being would have hesitated to lend, as they did, their whole-hearted efforts to this great enterprise unless they had known that the Charter enshrined this cardinal principle."

The representative of Belgium maintained that Article 2 (7) contained a general prohibition :

"... It applies to all provisions of the Charter, including those bearing on human rights and specifically on the right of peoples to self-determination, since these were not excluded. Article 2, paragraph 7, admits of only one exception, which is explicitly stated, and which obviously does not apply to the present case. This prohibition applies to the entire Organization and therefore to all its organs — hence to both the Security Council and the Assembly."

At the same meeting the agenda was not adopted.\*

CASE 3.<sup>10</sup> THE SITUATION IN HUNGARY : In connexion with the letter dated 27 October 1956 from the representatives of France, the United

Kingdom and the United States to the President of the Security Council concerning the situation in Hungary and with the decision of 28 October 1956 adopting the provisional agenda.<sup>11</sup>

[Note : It was requested that the Security Council should consider the situation created by action of foreign forces in repressing the rights of the Hungarian people guaranteed by the Peace Treaty with Hungary of 1947. Objections were raised on the grounds of Article 2 (7) of the Charter and it was argued that the inclusion of the question in the agenda of the Security Council would constitute an interference in the internal affairs of Hungary. The agenda was adopted.]

By letter<sup>12</sup> dated 27 October 1956 addressed to the President of the Security Council, the representatives of France, the United Kingdom and the United States referred

"... to the situation created by the action of foreign military forces in Hungary in violently repressing the rights of the Hungarian people which are secured by the Treaty of Peace of 10 February 1947 to which the Governments of Hungary and the Allied and Associated Powers are parties."

They requested that pursuant to the provisions of Article 34 of the Charter, an item entitled "The situation in Hungary" be included in the agenda of the Security Council and be considered at an urgent meeting of the Council.

By letter<sup>13</sup> dated 28 October 1956, the representative of the Hungarian People's Republic transmitted to the Security Council a copy of a declaration of the Government of the Hungarian People's Republic "concerning the proposed agenda of the meeting of the Security Council to be convened on 28 October 1956", and requested that this declaration be circulated "among the members of the Security Council, as an official document of the United Nations to the aforesaid meeting".

In the declaration, the Government of Hungary stated that

"... the events which took place on 22 October 1956 and thereafter, and the measures taken in the course of these events are exclusively within the domestic jurisdiction of the Hungarian People's Republic and consequently do not fall within the jurisdiction of the United Nations. The Government... wishes to emphasize that the internal events of the preceding days in Hungary have no effect whatsoever on international peace and security and do not endanger their maintenance..."

After quoting the text of Article 2 (7) of the Charter, the Hungarian Government "categorically" protested

<sup>11</sup> On the inclusion of the question in the agenda, see chapter II, part III.B.1, Case 7.

<sup>12</sup> S/3690, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 100.

<sup>13</sup> S/3691, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 100-101.

\* 730th meeting : para. 85.

<sup>10</sup> For texts of relevant statements, see :

746th meeting : Australia, para. 133 ; Belgium, paras. 180-182 ; USSR, paras. 12-13, 20, 26 ; United Kingdom, para. 30 ; United States, paras. 58-59.



against placing on the agenda the consideration of any question

"...concerning the domestic affairs of Hungary, since the consideration of such questions in the United Nations would mean serious violation of the sovereignty of the Hungarian People's Republic and would obviously be in contradiction with the principles laid down in the Charter of the United Nations."

At the 746th meeting on 28 October 1956, the representative of the USSR, opposing the inclusion of the question on the situation in Hungary in the agenda of the Council, stated that

"...The very wording of this item shows in itself that what the United States, the United Kingdom and France have in mind is an attempt, in defiance of the provisions of the United Nations Charter, at gross interference in the domestic affairs of the Hungarian People's Republic."

The representative of the USSR quoted the text of Article 2 (7) and, after referring to the declaration of the Hungarian Government of 28 October 1956, stated that

"The measures the Hungarian Government has seen fit to take in order to put an end to the armed uprising of criminal elements of a fascist type against the legal Government of Hungary and to maintain law and order in the country are its inalienable prerogative, as they are the prerogative of the Government of any other sovereign State. In defence of the democratic people's régime, the Hungarian Government was compelled to bring its armed forces into action for the liquidation of the counter-revolutionary uprising, and it appealed to the Government of the Soviet Union for assistance. It is perfectly clear that all these actions of the Hungarian Government are an internal affair of the Hungarian State, and the United Nations, including the Security Council, is in no way entitled to interfere in these matters."

The representative of the United Kingdom pointed out that the USSR representative had argued that the matter at issue was one of domestic jurisdiction and that Article 2 (7) debarred the Council from intervention. But what was the situation in Hungary which the Council was asked to consider? It was "the situation created by the action of foreign military forces in Hungary". Foreign troops were fighting in Hungary. That was obviously a matter of international concern. It seemed to the representative of the United Kingdom clear that the Security Council was competent; nor had he any doubt, in view of the gravity of the situation, that it was "the Council's duty to consider the situation".

After the adoption of the agenda,<sup>14</sup> the representative of the United States contended that "this urgent meeting of the Security Council has been called to consider the situation in Hungary resulting from the violent suppression of the Hungarian people by armed force". The Hungarian people were demanding the rights and freedoms affirmed in the Charter, and specifically guaranteed to them by the Peace Treaty to which the Governments of Hungary and the Allied and Associated Powers were parties. The Security Council "must consider a situation so flagrantly contrary to the purposes and principles set forth in the Charter".

The representative of Australia stated that his country had always taken "a firm stand on the observance of Article 2, paragraph 7, of the Charter" and was consistently opposed to intervention by the United Nations in matters which were essentially within the domestic jurisdiction of any State. But he did not believe that

"...this provision of the Charter prevents the Council, in this particular case, from investigating the situation created in Hungary by the violent action taken by foreign military forces in repressing the civil rights and political freedoms of the Hungarian people, rights and freedoms that were guaranteed under article 2, paragraph 1, of the Treaty of Peace with Hungary."

The representative of Belgium observed that the contentions of the representative of the USSR and of the Hungarian Government that the item under discussion was a matter within the domestic jurisdiction seemed somewhat surprising. The USSR had maintained repeatedly, both in the Security Council and in the General Assembly, even in cases when provisions of the Charter concerning matters within the domestic jurisdiction could lawfully be invoked, that those provisions should not prevent intervention by the United Nations. Furthermore,

"in the present case the letter which laid the matter before the Council refers to the action of foreign military forces in Hungary. On this occasion, it is precisely that element which invalidates the arguments drawn from Article 2, paragraph 7, of the Charter. It is alleged that the Soviet army intervened at the request of the Hungarian Government. But would that Government have been able to maintain itself in power without the support of the Soviet army?"

<sup>14</sup> 746th meeting: para. 35.

## Part II

### CONSIDERATION OF THE PROVISIONS OF ARTICLE 24 OF THE CHARTER

#### NOTE

While Article 24 has not been the subject of constitutional discussion during the period under review, on one occasion<sup>15</sup> incidental reference was made to the primary

<sup>15</sup> See Chapter VI, Case 1.

responsibility of the Security Council in relation to the functions of the General Assembly concerning the maintenance of international peace and security.

Attention may also be directed to three decisions<sup>16</sup> of

<sup>16</sup> See Chapter VI, Cases 2, 3 and 4.

the Council in the preamble of which reference was made to the inability of the Security Council to exercise its primary responsibility for the maintenance of inter-

national peace and security, because of the "lack of unanimity of its permanent members" in particular instances of the Council's proceedings.

### Part III

## CONSIDERATION OF THE PROVISIONS OF ARTICLE 25 OF THE CHARTER

### NOTE

Discussion regarding Article 25 arose only in one instance as reported below in Case 4. Attention is also directed to the discussion of the question of the effect of recommendations of the Security Council in exercise of its powers under Chapter VI of the Charter in the India-Pakistan question (Chapter X, Case 11).

### Article 25 of the Charter

The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.

CASE 4.<sup>17</sup> THE PALESTINE QUESTION: In connexion with the report of the Secretary-General pursuant to the resolution of 4 April 1956; United Kingdom draft resolution voted upon and unanimously adopted, as amended, on 4 June 1956.

[Note: During the consideration of the report of the Secretary-General, the representative of Syria discussed the framework within which his Government had made its declaration<sup>18</sup> of acceptance of the cease-fire provisions of the Syrian-Israeli General Armistice Agreement.]

At the 724th meeting on 31 May 1956, the representative of Syria\*, stressing the need to achieve a genuine cease-fire, stated:

"My Government has placed the matter in its proper context. In his letter dated 2 May 1956, which

<sup>17</sup> For texts of relevant statements, see: 724th meeting: Syria\*, paras. 34-35.

<sup>18</sup> For the Syrian Government's letter of 2 May 1956 to the Secretary-General and his reply of the same date, see S/3596, Annex 3, O.R., 11th year, Suppl. for Apr.-June 1956, pp. 59-60.

is reproduced as annex 3 to the report of the Secretary-General [S/3596], our Prime Minister has made it crystal clear that the declaration of cease-fire was given within the framework of the United Nations Charter and the resolutions of the Security Council, with particular reference to Article 25 of the Charter and the resolution of 27 October 1953 dealing with the question of the river Jordan [S/3128].

"This declaration of the Syrian Government is not a reservation nor is it a qualification. In law and in fact it is an integral part of the cease-fire declaration itself. The matter is foreign neither to the Charter, to the Israel-Syrian General Armistice Agreement or to the resolutions of the Security Council. For how can we conceive of a cease-fire declaration outside the ambit of the Charter and particularly the provisions of Article 25, which call for the acceptance and implementation of the resolutions of the Security Council? And again, how can we conceive of a cease-fire contrary to the resolutions of the Security Council, particularly the injunction embodied in the resolution of 27 October 1953, dealing with the diversion of the river Jordan?"

### Part IV

## CONSIDERATION OF THE PROVISIONS OF CHAPTER VIII OF THE CHARTER

### NOTE

In consequence of the obligation placed by the Charter upon Members of the United Nations and upon regional arrangements or agencies, the attention of the Security Council has been drawn during the period from 1956 to 1958 to the following communications, which have been circulated by the Secretary-General to the representatives of the Council, but have not been included in the provisional agenda:

1. *Communications from the Chairman of the Council of the Organization of American States*
  - (i) Dated 3 May 1957: transmitting a resolution adopted on 2 May 1957 by the Council at the request of the Governments of Honduras and Nicaragua for a Meeting of Consultation of Ministers of Foreign Affairs under the Inter-American Treaty of Reciprocal Assistance.<sup>19</sup>

<sup>19</sup> S/3824.

- (ii) Dated 27 May 1957 : transmitting a report to the Council submitted by the Investigating Committee on the differences between Honduras and Nicaragua at the meeting held on 17 May, and the resolutions approved by that body at the meetings held on 17 and 24 May 1957.<sup>20</sup>
- (iii) Dated 8 July 1957 : transmitting a resolution adopted on 5 July 1957 by the Council on the differences between Honduras and Nicaragua.<sup>21</sup>
- (iv) Dated 23 July 1957 : transmitting the text of an agreement signed by the Ministers of Foreign Affairs of Honduras and Nicaragua on 21 July 1957.<sup>22</sup>

2. *Communications from the Chairman of the Inter-American Peace Committee*

Dated 23 April 1956 : transmitting a copy of the minutes of the meeting held by the Inter-American Peace Committee on 20 April concerning the case submitted to the Committee by the Government of Cuba on 27 February 1956.<sup>23</sup>

3. *Communications from the Secretary-General of the Organization of American States*

Dated 28 July 1958 : transmitting the text of a resolution adopted by the Council of the Organization on 27 June 1957 in connexion with the differences between Honduras and Nicaragua.

\*\*4. *Communications from States parties to disputes or situations*

In addition to circulating these communications to the representatives on the Council, it has been the practice to include summary accounts of the disputes or situations referred to in them in the Reports of the Security Council to the General Assembly.<sup>24</sup>

CASE 5.<sup>25</sup> LETTER DATED 22 MAY 1958 FROM THE REPRESENTATIVE OF LEBANON ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL : In connexion with the application of Lebanon for the inclusion of the question in the agenda of the Security Council.

<sup>20</sup> S/3856.

<sup>21</sup> S/3857 and Rev.1.

<sup>22</sup> S/3859.

<sup>23</sup> S/3591.

<sup>24</sup> See Report of the Security Council to the General Assembly, 1955-1956 (*G.A.O.R., 11th session, Suppl. No. 2*), p. 47 ; Report of the Security Council to the General Assembly, 1956-1957 (*G.A.O.R., 12th session, Suppl. No. 2*), p. 78 ; Report of the Security Council to the General Assembly, 1957-1958 (*G.A.O.R., 13th session, Suppl. No. 2*), p. 61 ; Report of the Security Council to the General Assembly, 1958-1959 (*G.A.O.R., 14th Session, Suppl. No. 2*), p. 34.

<sup>25</sup> For texts of relevant statements, see :

818th meeting : President (Canada), para. 17 ; Colombia, paras. 23-26 ; Iraq, paras. 8, 28-30 ; Lebanon \*, paras. 11-15 ; Panama, paras. 32-35 ; USSR, para. 7 ;

822nd meeting : President (China), paras. 1, 3 ;

823rd meeting : President (China), para. 191 ; Colombia, paras. 144-148 ; Japan, paras. 126-128 ; Panama, paras. 172-173 ;

824th meeting : President (China), para. 2.

[*Note* : Discussion of the obligation of the Council to take account of the proceedings of the regional organization of which the parties to the complaint were members.]

At the 818th meeting on 27 May 1958, the representative of Iraq proposed that the Council should adjourn until 3 June 1958 by which time it would be known whether the complaint of Lebanon against the United Arab Republic could be resolved by the League of Arab States which would meet to consider it on 31 May.

The President (Canada) observed that a proposal aimed at achieving a peaceful solution on a regional basis seemed to fit into the general pattern of United Nations procedures.

The representative of Colombia was prepared to concur on the understanding that the League of Arab States had been seized of a complaint " exactly similar " to that submitted to the Security Council. A note from the permanent observer of the League of Arab States of 26 May 1958 referred to a complaint of aggression. If the issue submitted to the Council by Lebanon was equivalent to the matter to be considered by the League of Arab States, he would agree to await consideration by the League.

The representative of Iraq assured the representative of Colombia that " the same question " had been submitted to the Security Council and to the League of Arab States.

The representative of Panama concurred with the view that the Council should approve the proposal of the representative of Iraq in order to enable the League of Arab States to have recourse to the peaceful means contemplated in Article 33 of the Charter. Moreover, it was the duty of the Security Council, in accordance with Article 36, to take into account the peaceful means freely chosen by Lebanon and the United Arab Republic when signing the Pact of the League of Arab States.

At the 823rd meeting on 6 June 1958, when the Council began consideration of the complaint, the representative of Japan, following statements by the representatives of Lebanon and the United Arab Republic, declared that the explanations given by the representatives of Lebanon and the United Arab Republic did not appear complete, and suggested that the Council should be furnished with more complete information on the meetings of the League of Arab States dealing with the question.

The representative of Colombia supported the suggestion of the representative of Japan. He observed that Colombia was a member of a regional organization, the Organization of American States, to which the United Nations accorded a status identical to that given the League of Arab States. " A very grave precedent " would be set if the Security Council, which on three consecutive occasions had postponed consideration of this question to await a decision from the League of Arab States, proceeded to consider it without ascertaining what had taken place in the League. Such a precedent might be

applied later to disputes between the nations composing the Organization of American States.

The representative of Panama supported the proposal of the representative of Colombia which was based on the provisions of the Charter. Articles 53 and 54 referred to the Council's obligation to take account of such agencies and organizations.

The President (China) observed concerning the desire expressed by some members of the Council for additional information in regard to the meetings of the League of Arab States, that formal action by the Council was

unnecessary. The representatives of Iraq, Lebanon and the United Arab Republic might see fit to furnish the Council with additional information.

At the 824th meeting on 10 June 1958, the President (China) stated that the representative of Iraq had transmitted to him some information in Arabic about what took place at the League meetings, which was being translated and would be made available to members of the Council. The representative of Iraq informed the Council that the information in question included the summary records of the meetings of the League of Arab States.

**Part V**

**\*\*CONSIDERATION OF THE PROVISIONS OF ARTICLES 82-83 OF THE CHARTER**

**Part VI**

**\*\*CONSIDERATION OF THE PROVISIONS OF CHAPTER XVII OF THE CHARTER**