

**Chapter V**

**SUBSIDIARY ORGANS OF THE SECURITY COUNCIL**

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## INTRODUCTORY NOTE

In this chapter is included material regarding procedures of the Security Council in establishing, under Article 29 of the Charter, subsidiary organs necessary for the performance of its functions. It has not been found possible to group this material under headings wholly of a procedural character, since in every instance the procedure followed in the establishment of the subsidiary organ, in its working and in the presentation of reports, has been procedure special to the subsidiary

organ in question. The material has therefore been arranged under two headings, part I containing case histories of all occasions on which subsidiary organs have been established by the Council, or proposed but for various reasons not subsequently established, and part II containing material drawn from those occasions when some special problem of procedure in relation to a subsidiary organ has been the subject of consideration in the Council.

### 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 histories in part I have been designed to give, in chronological sequence, an account of the tasks proposed for, or entrusted to, subsidiary organs from time to time by the Security Council, together with an indication of the main arguments for or against the employment of subsidiary organs for these tasks. The case histories also contain a synopsis of discussion bearing on the question of their composition and indicate the manner in which the subsidiary organs have been terminated.

Since the functioning of subsidiary organs meeting at the seat of the Organization and in touch at all times with the Council itself may well present features markedly different from those presented by the functioning of subsidiary organs entrusted with tasks that the Council could not itself carry out without holding meetings at "places other than the seat of the Organization" (Article 28 (3)), advantage has been taken of this distinction to arrange the case histories in part I under the two sections (A and B) according to whether the establishment of the subsidiary organ involved, to facilitate its work, meetings at places away from the seat of the Organization or not.

Within the period under consideration, the subsidiary organs which have called for entry in section A 1 are those established by the Council in connexion with its discharge of responsibilities for the maintenance of international peace and security. The data entered relates to the occasion of the establishment of the subsidiary organ, discussion regarding its composition, and indications regarding its termination. The material is limited to the evidence of the Official Records of the Council.

The internal procedure and organization of such subsidiary organs is not dealt with. Such information will, however, be found in the series of memoranda prepared by the Secretary-General entitled: "Organization and Procedure of United Nations Commissions."<sup>1</sup> where information is given under standardized headings, such as: A. Constitutional Origin. B. Organization: Arrangements for convening the first meeting; Name of Commission; Membership and composition; Qualifications of representatives; Payment of expenses of members; Chairmanship; Size of the delegations; Secretariat; Liaison with States and organizations concerned; Brief outline of Commission structure. C. Internal Procedure: Methods of adoption of rules of procedure; Documentation and distribution of records; How decisions were taken; Publicity of meetings; Relations between formal and informal discussions; Security arrangements. D. Relations with the principal organ.

Where subsidiary organs as established at Headquarters (in section B) constituted, in fact, Committees of the whole,<sup>2</sup> information regarding the substance of the question dealt with will be found in other chapters, this chapter containing merely such procedural material as relates to their establishment, and to the ways in which the Council has utilized the services of the subsidiary organ in question.

So far as the Committee of Experts is concerned, in the absence of detailed terms of reference, instances have been given of all occasions on which matters were referred to it, or proposed for reference to it. The

<sup>1</sup> United Nations publications 1949.X.1-9 and 1950.X.1-3.

<sup>2</sup> Committee of Experts; Committee on Admission of New Members; Commission for Conventional Armaments.

terms of reference of the Committee can be found by an examination of the range of questions thus referred to it from time to time by the Council. The case histories are not designed to include information regarding the internal working of the Committee, or the manner of execution of the various tasks assigned to it, since the Committee of Experts has met in private.

So far as the Committee on the Admission of New Members is concerned, the case histories have been grouped under two headings.<sup>3</sup> Under the first heading is contained material bearing on the constitutional origin of the Committee and the subsequent organization adopted by the Committee itself for the discharge of its functions. Under the second heading is contained material relating to the form and contents of the reports made by the Committee to the Council. The first five reports of the Committee to the Security Council (with the exception of the reports on the applications of Ceylon and Israel, which were very brief) contained a summary of the proceedings of the Committee, its decisions on matters of procedure, and a summary of the statements made by the various representatives. In the case of each application, the Committee stated its conclusions, indicating the formal attitude of various delegations on the desirability of admitting the applicant and informing the Security Council whether or not the material placed before the Committee and the ensuing discussion constituted a sufficient basis for the members of the Council to reach a decision. The two latest reports<sup>4</sup> were in conformity with the original pattern, but, instead of stating the formal attitudes of the representatives on the Committee toward each of the applications under examination, stated in the concluding paragraphs that votes had been taken, and recorded the result of the voting.

Other subsidiary organs at Headquarters have been sub-committees established to seek agreement after general discussion, either by reconsideration of points outstanding at the conclusion of discussion in the Council or by formulation of an agreed text for a draft resolution. All occasions on which subsidiary organs of this nature have been set up have been collected under a separate heading in section B.

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

##### I. Subsidiary organs established

###### CASE 1

###### Commission of Investigation concerning Greek Frontier Incidents

###### *Establishment*

At the 85th meeting on 18 December 1946, in connexion with the Greek frontier incidents question, the representative of the United States introduced a draft resolution to set up a commission of investigation.

At the 87th meeting on 19 December 1946, the Security Council resolved to establish a commission of investigation with authority to conduct its investigation

<sup>3</sup> Material bearing on procedures by which the Security Council has referred applications to the Committee will be found in chapter VII, part IV.

<sup>4</sup> Case 49 (i) and (ii): S/1281 (Republic of Korea), and S/1382 (Nepal).

in northern Greece and in such places in other parts of Greece, Albania, Bulgaria and Yugoslavia as the commission considered should be included in its investigation in order to elucidate the causes and nature of the alleged border violations and disturbances.<sup>5</sup>

###### *Composition*

The United States draft resolution specified that the commission should be composed of representatives of each of the permanent members of the Council and of Brazil and Poland.<sup>6</sup> The representative of France considered that the commission would be more efficient if it were a homogeneous body made up of a few officers belonging to a State not a member of the Council, which would organize the commission in agreement with the Council. The representative of Mexico considered that it would be wiser to compose the commission of representatives of every member of the Security Council.

The representative of the United States explained that, in drafting his proposal, the consideration had been that preferably the commission should be a small one, that the principle of unanimity and the advantages of unanimity would be preserved, and that it was necessary that the number should be uneven. He would, however, have no objections to constituting a commission of each member of the Council as it would stand on 1 January 1947. The representative of the USSR remarked that, if the commission were to include representatives of all States on the Council, one might well ask in what respect it would differ from the Council itself. In his view the United States proposal to include seven members was sensible, as it would serve to render the commission more operative and efficient. The representative of Poland drew attention to the danger of creating a precedent, in that the Council would never be able to set up a commission composed of less than eleven members. This would not be conducive to the future efficiency of the Council.<sup>7</sup> At the 87th meeting on 19 December 1946, the Council resolved that the commission would be composed of a representative of each of the members of the Security Council as it was to be constituted in 1947.<sup>8</sup>

###### *Termination*

The Commission of Investigation concerning the Greek frontier incidents question was terminated by the decision adopted by the Council at the 202nd meeting on 15 September 1947 whereby the Greek frontier incidents question was taken off the list of matters of which the Council is seized.<sup>9</sup>

###### CASE 2

###### Subsidiary Group of the Commission of Investigation concerning Greek Frontier Incidents

###### *Establishment*

At the 123rd meeting on 28 March 1947, the representative of the United States drew attention to the fact that the Commission of Investigation concerning Greek Frontier Incidents would leave Greece for Geneva on

<sup>5</sup> 87th meeting: pp. 700-701. For the full text, see chapter VIII, p. 309.

<sup>6</sup> 87th meeting: pp. 676-677.

<sup>7</sup> For texts of relevant statements see: 87th meeting: President (United States), pp. 677-680; France, p. 654; Egypt, pp. 677-678; Mexico, pp. 676-677, 679-680; Netherlands, pp. 678, 679; Poland, p. 680; USSR, p. 678; United Kingdom, pp. 678, 680.

<sup>8</sup> 87th meeting: pp. 700-701.

<sup>9</sup> See Case 71.

7 April to prepare its report to the Security Council. He believed it important that the Commission should leave representatives in the border area to report immediately on any violations, to furnish the Commission and the Council with any additional information which might come to light, and to help stabilize the situation pending Council action. In his view the resolution creating the Commission gave it full authority to leave representatives in Greece, and it was implicit in the resolution that the Commission would continue in existence until the Council disposed of the Greek case or acted to terminate the Commission. At the 126th meeting on 7 April, the representative of the United States submitted a draft resolution which, as amended, provided: "that, pending a new decision of the Security Council, the Commission shall maintain in the area concerned a subsidiary group composed of a representative of each of the members of the Commission".<sup>10</sup>

At the 131st meeting on 18 April 1947, the representative of France proposed that the function of the subsidiary group would be "to continue to fulfil such functions as the Commission may prescribe" in accordance with its terms of reference,<sup>11</sup> and the United States draft resolution, as amended, was adopted.<sup>12</sup>

#### *Composition*

The Subsidiary Group was established by the Commission on 29 April 1947, in accordance with the Council's resolution of 18 April, and consisted of one representative of each member of the Council.

#### *Termination*

The Subsidiary Group was terminated by the decision of the Council of 15 September 1947, simultaneously with the termination of its parent body.<sup>13</sup>

### CASE 3

#### **Committee of Good Offices on the Indonesian Question**

#### *Establishment*

Following the adoption of a resolution on 1 August 1947 with regard to the Indonesian question (II) which called upon the parties to cease hostilities forthwith and to settle their dispute by arbitration or by other peaceful means, the Security Council held a series of meetings between 12 and 25 August 1947 to consider what method it should adopt to assist in achieving a peaceful settlement. In the course of these meetings, a number of draft resolutions were introduced, calling on the United States and Australia jointly, or for a Council commission, to act as mediator, or for an arbitration commission of three members consisting of one arbitrator selected by each party and one by the Council itself. These proposals reflected suggestions put forward by the two parties to the dispute; the representative of the Republic of Indonesia having suggested at the 184th meeting on 14 August that the Council appoint a commission to arbitrate on all points in dispute, and the representative of the Netherlands having urged, at the 185th meeting on 15 August, that the Republic accept the offer of good offices which had been made at the

outset of the question by the United States, or some other form of good offices exercised by an impartial State.

At the 193rd meeting on 22 August 1947, the representative of the United States introduced a draft resolution, whereby the Council would resolve to tender its good offices to the parties to assist in the pacific settlement of their dispute. If the parties so requested, the Council would be ready to assist in the settlement through a committee of the Council consisting of three of its members, each party selecting one, and the third to be designated by the two so selected.<sup>14</sup>

The representative of the USSR maintained that the adoption of the United States draft resolution would mean that the Council voluntarily stood aside and refrained from deciding the question. If the Council wished to deal seriously with the matter, it should appoint a commission composed of representatives of States members of the Council to arbitrate the matters in dispute between the parties.<sup>15</sup>

At the 194th meeting on 25 August, the United States draft resolution was adopted, setting up the Security Council Committee of Good Offices on the Indonesian question.<sup>16</sup>

At several meetings held between 3 October and 1 November 1947, the Council considered several proposals designed to assure implementation of the cease-hostilities clause of its resolution of 1 August. At the 219th meeting on 1 November 1947, the Council requested the Committee of Good Offices "to assist the parties in reaching agreement on an arrangement which will ensure the observance of the cease-fire resolution."<sup>17</sup>

#### *Composition*

In accordance with the terms of the Council's resolution of 25 August, the Government of the Netherlands selected Belgium as its representative on the Committee of Good Offices, the Government of the Republic of Indonesia selected Australia, and Australia and Belgium selected the Government of the United States of America as the third member of the Committee.<sup>18</sup>

During December 1947, the representative of Australia drew attention to the fact that after 31 December Australia would cease to be a member of the Council. No objection was raised to Australia continuing to be a member of the Committee, but the question of the concurrence in this arrangement by the original nominating party was raised. This concurrence was immediately safeguarded. It was also pointed out that the limitation in the resolution of 25 August confining the choice of the parties to Council members was merely a device which had provided a panel of nations eligible for membership, and that the choice and acceptance of the members of the Committee had been for the duration of the Committee's work. The observation was also made that the continuation of Australia on the Committee after leaving the Council should not be treated as a precedent, to avoid the possibility of a committee of the Council being composed of Governments not on the Council. The President expressed the understand-

<sup>14</sup> S/514, 193rd meeting: p. 2177.

<sup>15</sup> 193rd meeting: pp. 2181-2183.

<sup>16</sup> 194th meeting: p. 2209. For full text, see chapter VIII, p. 317.

<sup>17</sup> 219th meeting: pp. 2723-2724, 2750.

<sup>18</sup> S/545, S/564 and S/558, 206th meeting: p. 2481.

<sup>10</sup> 123rd meeting: pp. 618-619; 126th meeting: pp. 708, 714.

<sup>11</sup> 131st meeting: p. 796.

<sup>12</sup> 131st meeting: p. 800. For full text, see chapter VIII, p. 310.

<sup>13</sup> See Case 71.

ing of the Council that the membership of the Committee of Good Offices should continue unaltered.

#### *Termination*

At the 397th meeting on 7 January 1949, the Security Council had before it a report from the Committee of Good Offices stating that the Council's resolution of 24 December calling for cessation of hostilities and release of prisoners had not been implemented, and that the Committee had been without opportunities for observation owing to the failure of the Netherlands authorities to authorize or facilitate the return of the Committee's observers to the field. The report also asked for definition of the respective functions of the Committee and of the Consular Commission, since some questions had been raised following the Council's resolution of 28 December requesting the Consular Commission to report on the situation.<sup>19</sup> Finally, the report raised the question whether, in the circumstances, the continuance of the Committee would serve any useful purpose. At the 397th through 406th meetings, held between 7 and 28 January 1949, the Council considered ways and means of dealing with the new situation. By the resolution adopted at the 406th meeting on 28 January, the Committee of Good Offices was reconstituted as the United Nations Commission for Indonesia, with all the functions previously assigned to the Committee together with certain new functions.<sup>20</sup>

#### CASE 4

##### Consular Commission at Batavia

#### *Establishment*

On 5 August 1947, the Republic of Indonesia urged the Security Council "to appoint a committee composed of the representatives of several countries and to dispatch it to Indonesia as soon as possible for the purpose of ensuring the effective and smooth implementation of the cease-fire order"<sup>21</sup> which had been issued in response to the Council's resolution of 1 August. At the 181st meeting on 12 August, the representative of Australia proposed<sup>22</sup> "to establish a commission consisting of representatives of . . . who will report directly to the Security Council on the situation in the Republic of Indonesia following the resolution of the Council of 1 August 1947". He did not wish, at that stage, to determine the commission's membership, which could be decided once the parties had commenced negotiations.

At the 185th meeting on 15 August, the representative of the Netherlands suggested "that all the career consuls stationed in Batavia should jointly and immediately draw up a report on the present situation on the islands of Java, Sumatra and Madura". He supported a commission or an investigation, but held that the right to establish one did not lie with the Council.<sup>23</sup> The representative of Poland proposed that the commission be a commission of the Security Council.<sup>24</sup>

At the 187th meeting on 17 August, the representative of China proposed the deletion of the provision for

a commission, noting instead "that the Netherlands Government intends immediately to request the career consuls stationed in Batavia jointly to report on the present situation in the Republic of Indonesia, and to propose to the said Republic the appointment of an impartial State by two States to be designated, one by the said Republic, and one by the Netherlands Government, to inquire into the situation and to supervise the cease-fire". He further proposed "that the consular body at Batavia and the impartial State should be requested to forward copies of their reports to the Council".<sup>25</sup>

At the 193rd meeting on 22 August, the representatives of Australia and China introduced a draft resolution<sup>26</sup> to request "the Governments members of the Council which have career consular representatives in Batavia to instruct them to prepare jointly for the information and guidance of the Security Council reports on the situation in the Republic of Indonesia following the resolution of the Council on 1 August 1947, such reports to cover the observance of the cease-fire orders and the conditions prevailing in areas under military occupation or from which armed forces now in occupation may be withdrawn by agreement between the parties".

The representatives of the USSR opposed this draft resolution on the ground that it meant by-passing the United Nations, and at the 194th meeting on 25 August, as amendments to the joint Australian-Chinese draft resolution, he proposed the establishment of "a commission composed of the States members of the Security Council to supervise the implementation of the decision of the Security Council of 1 August".<sup>27</sup> The USSR amendment was not adopted, there being 7 votes in favour, 2 against (one vote against being that of a permanent member) and 2 abstentions.<sup>28</sup>

The Australian-Chinese joint draft resolution was adopted by 7 votes in favour, none against, and 4 abstentions.<sup>29</sup>

#### *Composition*

At the 187th meeting on 17 August 1947, the representative of Australia indicated willingness to incorporate in his draft resolution the Netherlands' suggestion of utilizing the services of consular representatives in Batavia. There were available representatives of Australia, Belgium, China, Czechoslovakia, France, the United Kingdom and the United States, from which a commission of five might well be appointed to act on behalf of the Council.<sup>30</sup> At the 193rd meeting on 22 August, the representative of the USSR opposed the joint Australian-Chinese draft resolution. He expressed the view that the majority of the Governments with consular representatives did not take a neutral position in the Indonesian question and could not be relied upon to reflect in any way the Council's opinion. There was no justification for the proposal that only five countries should ensure implementation of the cessation of hostilities. The career consuls were not representatives of the Security Council or a commission of the Council. It was a question of principle that a commission should consist of States represented on the Security Council,

<sup>25</sup> S/488/Add.2, 187th meeting: p. 2067.

<sup>26</sup> S/513, 193rd meeting: pp. 2173-2174, footnote 3.

<sup>27</sup> 194th meeting: p. 2197.

<sup>28</sup> 194th meeting: pp. 2199-2200.

<sup>29</sup> 194th meeting: p. 2200. For full text, see chapter VIII, p. 317.

<sup>30</sup> 187th meeting: pp. 2070-2071.

<sup>19</sup> S/1189, O.R., 4th year, Suppl. for Jan. 1949, pp. 6-17.

<sup>20</sup> 406th meeting: pp. 21-33. See Case 5.

<sup>21</sup> S/469, 178th meeting: pp. 1841-1842, footnote 1.

<sup>22</sup> S/488, 181st meeting: pp. 1917-1918, footnote 2.

<sup>23</sup> 185th meeting: p. 2013.

<sup>24</sup> 185th meeting: p. 2017.

whether all eleven were represented or a smaller number.<sup>31</sup> This position was supported by the representative of Poland who considered that six non-permanent members, five permanent members, or all eleven members would be satisfactory so long as the commission was composed of members of the Council.<sup>32</sup>

At the 194th meeting on 25 August, the joint Australian-Chinese draft resolution for the establishment of the commission was adopted.<sup>33</sup> The members of the Security Council during 1947 with career consular representatives in Batavia were Australia, Belgium, China, France, the United Kingdom and the United States. After receiving authorization from their respective Governments, these representatives constituted themselves into a Commission on 1 September 1947, and were known as the "Security Council Consular Commission at Batavia".

#### *Termination*

Following the receipt of the report<sup>34</sup> of the Consular Commission, the representative of India, at the 214th meeting on 27 October 1947, expressed the opinion that "with the submission of its report on the existing situation in Indonesia . . . the Commission has become *functus officio*". He thought that, with the Committee of Good Offices functioning on the scene, it would be free to utilize the services of military assistants and other agencies without a new lease on life being given to the Consular Commission.

At the 217th meeting on 31 October 1947, the representative of Australia observed that it had been the intention that the Consular Commission, with its military advisers, should continue to observe and report on the cease-fire orders, while the Commission itself appeared to have felt that it was called upon to submit one report and then dissolve.<sup>35</sup> The President (United Kingdom) recalled that the consuls had been instructed to prepare information reports on the situation, and that therefore the Council should expect to have periodic reports. He proposed the transmission to the Consular Commission of the verbatim records of discussion in the Council, inviting special attention to the President's statement about the continuing role of the Commission. He added that his ruling that the resolution of 25 August required reports from the Commission had not been challenged, and would stand.<sup>36</sup> The representative of Poland expressed doubt whether the Consular Commission continued, since he considered that its task had been fulfilled by the sending of the report. He did not intend to move for a dissolution of the Commission, but suggested that the problem of its future should be discussed at a later stage. The matter was left in abeyance, and on 1 November 1947, the Council requested the Consular Commission, together with its military assistants, to make its services available to the Committee of Good Offices.<sup>37</sup>

At the 406th meeting on 28 January 1949, the Council reconstituted the Committee of Good Offices as the United Nations Commission for Indonesia, and requested the Consular Commission to facilitate the work

of the new Commission "by providing military observers and other staff and facilities" and temporarily to suspend other activities.<sup>38</sup>

Thenceforward the Consular Commission confined its activities to obtaining the services of military observers from the Governments of its members and placing them at the disposal of the United Nations Commission for Indonesia. On 3 April 1951, the Commission for Indonesia reported that, in view of the satisfactory state of the implementation reached in the arrangements made for the withdrawal of Netherlands troops from Indonesia, it had decided on 14 March that the services of the military observers would no longer be required as from 6 April 1951.<sup>39</sup> The Consular Commission has therefore ceased to function, but has not been terminated by a formal decision of the Council.

#### CASE 5

#### United Nations Commission for Indonesia

#### *Establishment*

From the time of the receipt of the first interim report in February 1948 of the Committee of Good Offices on the Indonesian question, suggestions had been made that the Committee be given wider powers. In December 1948 hostilities again broke out, and the Committee itself raised the question whether its continuance would serve any useful purpose.<sup>40</sup>

At the 402nd meeting on 21 January 1949, Cuba, China, Norway and the United States proposed that the Committee of Good Offices should become the United Nations Commission for Indonesia, with new functions and wider powers.<sup>41</sup>

The representative of the United States recognized that a heavy burden was being placed on the Commission, but the sponsors had not sought to give it any power which the Council could not delegate. Experience had shown that a goal must be set for the consummation of negotiations, which should be assisted by an agency of the Council. The representative of the USSR opposed the proposal; any extension of the Committee's terms of reference would give the United States representative greater opportunities to intervene in the domestic affairs of Indonesia. The representative of the Netherlands maintained that the proposal required his Government to hand over certain vital rights to the Commission or to the Council. The provision that the Commission should take a decision by majority vote would mean that the decisive vote would lie with the United States. He had fundamental objections to empowering the Commission to deal with the establishment of a federal interim government, the holding of elections and the transfer of sovereignty; and to make recommendations to the Council for the return of certain areas to the Republican Government and for the withdrawal of Netherlands troops.<sup>42</sup>

The joint draft resolution was put to the vote paragraph by paragraph at the 406th meeting on 28 January 1949 and was adopted.<sup>43</sup>

<sup>31</sup> 193rd meeting: p. 2180-2183.

<sup>32</sup> 193rd meeting: p. 2185.

<sup>33</sup> S/525, I, 194th meeting: pp. 2199-2200.

<sup>34</sup> S/586, O.R., 2nd year, Special Suppl. No. 4.

<sup>35</sup> 217th meeting: p. 2701.

<sup>36</sup> 217th meeting: pp. 2703-2704.

<sup>37</sup> 219th meeting: p. 2750.

<sup>38</sup> 406th meeting: p. 30.

<sup>39</sup> S/2087, O.R., 6th year, Special Suppl. No. 1.

<sup>40</sup> S/1189, O.R., 4th year, Suppl. for Jan. 1949, p. 6.

<sup>41</sup> S/1219, O.R., 4 year, Suppl. for Jan. 1949, p. 53.

<sup>42</sup> For texts of relevant statements see:

402nd meeting: Belgium, pp. 2-5; China, pp. 10-14; Netherlands, pp. 14-15; USSR, pp. 15-19; United States, pp. 7-10.

<sup>43</sup> 406th meeting: p. 33. For full text, see chapter VIII, pp. 332-324.

### Composition

The United Nations Commission for Indonesia maintained the same membership as the Committee of Good Offices: Australia, Belgium and the United States. Objection was raised to this procedure by the representative of the USSR.

### Termination

At the 456th meeting on 13 December 1949, the Council failed to adopt a Canadian draft resolution<sup>44</sup> to request the Commission to continue to discharge its responsibilities and, in particular, to observe and assist in the implementation of the agreements reached between the parties. A Ukrainian SSR draft resolution, to dissolve the Commission for Indonesia and establish a new commission composed of representatives of the members of the Council, was also not adopted.<sup>45</sup> The President (Canada) expressed confidence that, under previous resolutions of the Council which remained in full effect, the Commission for Indonesia would continue to render assistance to the parties and to discharge its remaining obligations to the Council.

In a report dated 3 April 1951,<sup>46</sup> the Commission stated that, since no items remained on its agenda, it had decided that, while continuing to hold itself at the disposal of the parties, it would adjourn *sine die*.

## CASE 6

### United Nations Commission for India and Pakistan

#### Establishment

Between 1 January and 3 June 1948, in connexion with the India-Pakistan question, the Security Council adopted four resolutions, three of which dealt with the establishment of a commission of investigation and mediation and defined its terms of reference. The first of these three resolutions, adopted at the 230th meeting on 20 January 1948,<sup>47</sup> created the Commission and directed it to proceed to the spot "as quickly as possible".

The Commission was authorized to take its decisions by majority vote and to determine its own procedure.

At the 286th meeting on 21 April 1948, the Council adopted a second resolution which instructed the Commission "to proceed at once to the Indian sub-continent and place its good offices and mediation" at the disposal of the parties. This resolution also instructed the Commission to establish such observers as it might require.<sup>48</sup>

At the 312th meeting on 3 June 1948, the Council adopted a third resolution directing "the Commission of Mediation to proceed without delay to the areas of dispute with a view to accomplishing in priority the duties assigned to it by the resolution of 21 April 1948 . . ."<sup>49</sup>

#### Composition

The resolution adopted by the Council at its 230th meeting on 20 January 1948 provided that: "A Com-

mission of the Security Council is hereby established composed of representatives of three Members of the United Nations, one to be selected by India, one to be selected by Pakistan, and the third to be designated by the two so selected."

The representatives of the USSR and the Ukrainian SSR abstained from voting because they disagreed with the principle underlying the formation of the Commission. The representative of the USSR said that the Commission would appear formally to be a commission of the Council, but would really be independent of it. He considered that it should be a Security Council commission composed of three, five or eleven States represented on the Council. He had no objection to the setting up of a commission as such composed of States represented on the Council. The representative of the Ukrainian SSR was of the opinion that the appointment of a commission by the Council from among its members "would make it possible for the Security Council to exert a real, constant and effective influence on the work of the Commission".

The representative of Colombia stated that the Council should be "only too glad to accept the principle of this initial step" since the two parties to the dispute had begun to establish the basis for an agreement in the appointment of the proposed Commission. The representative of the United Kingdom emphasized that the Commission would act under the authority of the Council, in accordance with its directions, and report to it. He said there might be differences of opinion on the form, but he believed that in substance the Council was in agreement.<sup>50</sup>

The resolution adopted at the 286th meeting on 21 April enlarged the membership of the Commission by adding two representatives, to be appointed later. If the membership of the Commission had not been completed within ten days, the President might designate another Member or Members of the United Nations to complete the membership of five. The President (Colombia) stated that it was proposed to increase the membership to five, having in mind the "very heavy work and responsibility" with which the Commission was to be entrusted.<sup>51</sup>

At the 287th meeting on 23 April, Belgium and Colombia were added to the Commission. On 10 February, India nominated Czechoslovakia, and on 30 April, Pakistan nominated Argentina. The nominees of the parties to the dispute failed to agree on a joint nomination to the Commission within the time limit set in the resolution of 21 April 1948, and on 7 May, the President (France) designated the United States to complete the membership.

#### Termination

At the 457th meeting on 17 December 1949, in presenting the 32nd interim report, the Chairman of the Commission declared that the task of investigation of the facts had been completed, and doubted whether a five-member body was the most flexible and desirable instrument for continuing the other tasks. The report suggested that a single person with broad authority and undivided responsibility would be more effective.<sup>52</sup>

<sup>44</sup> S/1431; O.R., 4th year, Suppl. for Sept., Oct., Nov., and Dec. 1949, p. 13.

<sup>45</sup> S/1433, 455th meeting: p. 27.

<sup>46</sup> S/2087, O.R., 6th year, Special Suppl. No. 1.

<sup>47</sup> S/654, O.R., 3rd year, Suppl. for Nov. 1948, pp. 64-65. For full text, see chapter VIII, p. 345.

<sup>48</sup> S/726, O.R., 3rd year, Suppl. for April 1948, p. 12; 286th meeting: pp. 9-39.

<sup>49</sup> S/819, 312th meeting: p. 21.

<sup>50</sup> For texts of relevant statements see:

230th meeting: President (Belgium), p. 129; Colombia, pp. 139, 141-142; Ukrainian SSR, p. 141; USSR, pp. 139-140, 142; United Kingdom, pp. 138, 142-143.

<sup>51</sup> 284th meeting: p. 3.

<sup>52</sup> 457th meeting: pp. 2-4.



At the 470th meeting on 14 March 1950, the Council decided to appoint a United Nations Representative for India and Pakistan,<sup>53</sup> and to terminate the United Nations Commission for India and Pakistan one month after both parties had informed the United Nations Representative of their acceptance of the transfer to him of the powers and responsibilities of the United Nations Commission. Following the appointment of Sir Owen Dixon as United Nations Representative at the 471st meeting on 17 April,<sup>54</sup> and the announcement by the representatives of India and Pakistan at that meeting of the acceptance by their Governments of his appointment, the United Nations Commission was terminated on 17 May 1950. In conformity with the resolution of 14 March 1950, the Government of Pakistan on 15 May and the Government of India on 1 June notified their acceptance of the transfer to the United Nations Representative of the powers and responsibilities of the United Nations Commission for India and Pakistan.<sup>55</sup>

## CASE 7

**The United Nations Military Observer Group for India and Pakistan**

At the 286th meeting on 21 April 1948, the Security Council adopted a resolution under which the United Nations Commission for India and Pakistan was authorized to establish in Jammu and Kashmir such observers as it might require "of any of the proceedings in pursuance of the measures" indicated in the resolution.<sup>56</sup> On 21 August, the Chairman of the Commission informed the Council that the Secretary-General had been requested to take immediate steps to appoint, at short notice, military observers for the supervision of the cease-fire in Kashmir. This message<sup>57</sup> was placed on the provisional agenda of the 356th meeting on 30 August 1948. The representatives of Syria, Belgium, and the United States objected to the inclusion of the item on the ground that under the terms of the resolution of 21 April the appointment of observers was a function of the Commission itself. The President (USSR) declared that the Council had no right to "sidetrack" the request for observers; that it was bound to consider the question and to decide how and on what principle these military observers were to be selected and which countries were to send them. The provisional agenda was not adopted. There were 2 votes in favour, with 9 abstentions.

On 15 September 1950 the United Nations Representative for India and Pakistan recommended that the party of the United Nations military observers established by the Commission be retained on the cease-fire line.<sup>58</sup> At the 539th meeting on 30 March 1951, the Council decided by 8 votes to none with 3 abstentions "that the military observer group shall continue to supervise the cease-fire in the State".<sup>59</sup> On 15 October 1951 the United Nations Representative stressed "the importance of the task of the United Nations team of military observers on the sub-continent in supervising

the cease-fire in the States of Jammu and Kashmir".<sup>60</sup> In the absence of further decision by the Council, the military observers have continued their task of supervision of the cease-fire in Kashmir.

## CASE 8

**United Nations Representative for India and Pakistan**

(i) At the 470th meeting on 14 March 1950, the Security Council adopted a resolution<sup>61</sup> appointing a United Nations Representative to exercise all the powers and responsibilities devolving upon the United Nations Commission under existing resolutions of the Council and by reason of the agreement of the parties embodied in the resolutions of the Commission. At the 467th meeting on 24 February, the representative of the United Kingdom said, in introducing a draft resolution to appoint a United Nations Representative, that if the Council decided to appoint a representative, it would be appropriate to leave to him the procedure to be followed. The representative of the United States stated that he considered judgment of the Commission—that a single person could now most effectively conduct the negotiations and consultations with the parties—had the full support of his Government. At the 469th meeting on 8 March, the representative of India stated that his Government preferred that the functions envisaged for a United Nations Representative should be assigned to a group of three, one to be nominated by India, one by Pakistan, and the third, who would be Chairman, by the Council in consultation with the two Governments immediately concerned. Failing this, his Government desired that the person chosen as Representative should be acceptable to it. At the 470th meeting on 14 March, the representative of India said that, on the assumption that the Representative would be appointed in agreement with the parties, his Government was prepared to extend to him such co-operation as lay in its power. At the 469th and 470th meetings the representative of Pakistan said that the main features of the resolution were satisfactory in the view of his Government.<sup>62</sup> The resolution having been adopted at the 470th meeting on 14 March, the Council met at its 471st meeting on 12 April, and appointed Sir Owen Dixon of Australia United Nations Representative for India and Pakistan.<sup>63</sup>

The United Nations Representative for India and Pakistan transmitted his report to the Council on 15 September 1950, and requested the formal termination of his position as United Nations Representative. At the 503rd meeting on 26 September, the report of the United Nations Representative appeared on the provisional agenda. In his remarks on the agenda the President (United Kingdom) stated without objection that the Council would wish to congratulate Sir Owen Dixon and liberate him from the mission with which he was charged. At the 539th meeting on 30 March 1951 the Council adopted a resolution accepting Sir Owen Dixon's resignation "in compliance with his request".<sup>64</sup>

<sup>53</sup> 470th meeting: p. 4.

<sup>54</sup> 471st meeting: p. 5.

<sup>55</sup> S/1490.

<sup>56</sup> S/726, O.R., 3rd year, Suppl. for April 1948, p. 12. See chapter VIII, p. 347.

<sup>57</sup> S/987, O.R., 3rd year, Suppl. for August 1948, p. 164.

<sup>58</sup> S/1791, para. 108, O.R., 5th year, Suppl. for Sept. through Dec. 1950, p. 47.

<sup>59</sup> S/2017/Rev.1, para. 7, O.R., 6th year, Suppl. for Jan., Feb. and March 1951, p. 27.

<sup>60</sup> S/2375, para. 66, O.R., 6th year, Special Suppl. No. 2, p. 23.

<sup>61</sup> 470th meeting: p. 4. For full text, see chapter VIII, p. 349.

<sup>62</sup> For texts of relevant statements see:

457th meeting: United Kingdom, pp. 5-9; United States, pp. 12-17; China, pp. 18-21; France, pp. 9-12; Norway, pp. 2-5.

469th meeting: India, p. 5; Pakistan, pp. 5-13.

470th meeting: India, p. 2; Pakistan, pp. 2-3.

<sup>63</sup> 471st meeting: p. 5.

<sup>64</sup> S/2017/Rev.1, O.R., 6th year, Suppl. for Jan., Feb., and March 1951, pp. 25-27.

(ii) At the same meeting, the Council decided to appoint a United Nations Representative in succession to Sir Owen Dixon, and at the 543rd meeting on 30 April, Mr. Frank P. Graham was proposed by the representatives of the United Kingdom and the United States. The representative of the USSR inquired why the candidate for this office should necessarily be a representative of the United States or of any other permanent member of the Security Council. There were no other candidates proposed and Mr. Graham was appointed.<sup>65</sup>

## CASE 9

## Truce Commission for Palestine

At the 287th meeting on 23 April 1948, in connexion with the Palestine question, the Security Council established, on the proposal of the representative of the United States, a Truce Commission for Palestine "to assist the Security Council in bringing about the implementation of the resolution of the Security Council of 17 April 1948".<sup>66</sup> The resolution provided that the Truce Commission was to be "composed of representatives of those members of the Security Council which have career consular officers in Jerusalem, noting, however, that the representative of Syria has indicated that his Government is not prepared to serve on the Commission". Accordingly, the following three members of the Council composed the Truce Commission for Palestine: Belgium, France and the United States.

At the 295th meeting on 18 May, the representative of Belgium stated that the Commission "is to be composed of representatives of those members of the Security Council which have career consular officers in Jerusalem". The resolution did not provide "that it should be composed of all consular officers in Jerusalem". The representative of Colombia stated that the provisions of the resolution were "not the same as saying that the Truce Commission shall be composed of the career consuls of the countries represented in the Security Council".<sup>67</sup> At the 298th meeting on 20 May, the President (France) remarked that "the Truce Commission is composed of the representatives of three countries having consuls in Jerusalem, but its members need not have been the consuls themselves. The consuls were in fact appointed because they were on the spot and were acquainted with the situation".<sup>68</sup>

By General Assembly resolution 194 (III) of 11 December 1948, the Conciliation Commission for Palestine was instructed to undertake, upon the request of the Council, any of the functions then assigned to the Truce Commission by resolution of the Council.<sup>69</sup>

No decision was taken by the Council to terminate the Truce Commission for Palestine, which submitted reports to the Council on the situation in Jerusalem up to January 1949.<sup>70</sup>

<sup>65</sup> 543rd meeting: p. 4.

<sup>66</sup> 287th meeting: pp. 15-16. For full text, see chapter VIII, pp. 327-328.

<sup>67</sup> 295th meeting: Belgium, p. 29; Colombia, p. 30.

<sup>68</sup> 298th meeting: p. 33.

<sup>69</sup> S/1122 and A/807.

<sup>70</sup> S/1203.

## CASE 10

## United Nations Truce Supervision Organization

At the 310th meeting on 29 May 1948,<sup>71</sup> in connexion with the Palestine question, the Security Council decided to instruct "the United Nations Mediator for Palestine, in concert with the Truce Commission, to supervise the observance" of the cease-fire in Palestine and also decided "that they shall be provided with a sufficient number of military observers". A Truce Supervision Organization was created in pursuance of this resolution and, at the 435th meeting on 8 August 1949, the representatives of Canada and France proposed to request the United Nations Chief of Staff of the Truce Supervision Organization, on the termination of all remaining functions of the United Nations Mediator, "to report to the Security Council on the observance of the cease-fire in Palestine" and "to keep the Palestine Conciliation Commission informed on matters affecting the Commission's work". The representative of the USSR stated that there was no longer any need to maintain United Nations observers in Palestine, and that consequently the staff which had been established should be disbanded, leaving the parties to settle outstanding questions between themselves "without any interference from the Conciliation Commission or the observers".<sup>72</sup> The Canadian-French draft resolution was adopted at the 437th meeting on 11 August 1949.<sup>73</sup> In conformity with this decision the Chief of Staff of the Truce Supervision Organization submitted reports to the Security Council and was also invited to the Council table at several meetings of the Council when the Palestine question was being discussed.<sup>74</sup>

## 2. Subsidiary organs proposed but not established

## CASE 11

At the 16th meeting on 11 February 1946, in connexion with the Indonesian question (I), the representative of the Ukrainian SSR proposed<sup>75</sup> to establish a commission composed of representatives of the United States of America, the USSR, China, the United Kingdom and the Netherlands, to carry out an enquiry in Indonesia and report to the Security Council on the result of its work. The proposal was rejected, by 2 votes in favour and 9 abstentions.<sup>76</sup>

## CASE 12

At the 18th meeting on 13 February 1946, in connexion with the Indonesian question (I), the representative of the USSR proposed, as an amendment to an Egyptian draft resolution, that a commission of enquiry be sent to Indonesia, composed of the representatives of China, the Netherlands, the United Kingdom, the United States of America and the USSR.<sup>77</sup> The amendment was rejected, by 3 votes in favour and 8 abstentions.<sup>78</sup>

<sup>71</sup> 310th meeting: p. 54; S/801, O.R., 3rd year, Suppl. for May 1948, pp. 103-104. For the text of the resolution, see chapter VIII, pp. 329-330.

<sup>72</sup> 435th meeting: pp. 3-6.

<sup>73</sup> 437th meeting: p. 13; S/1367.

<sup>74</sup> See chapter III, Case 4, p. 104.

<sup>75</sup> 16th meeting: p. 223.

<sup>76</sup> 18th meeting: pp. 257-258.

<sup>77</sup> 18th meeting: p. 262.

<sup>78</sup> 18th meeting: p. 263.

## CASE 13

At the 70th meeting on 20 September 1946, in connexion with the Ukrainian complaint against Greece, the representative of the United States proposed to establish a commission of three individuals nominated by the Secretary-General to investigate the facts relating to the border incidents along the frontiers between Greece, on the one hand, and Albania, Bulgaria and Yugoslavia on the other, and to submit to the Security Council a report on the facts disclosed by its investigation. The draft resolution was not adopted. There were 8 votes in favour, 2 against (one vote against being that of a permanent member), and one abstention.<sup>79</sup>

## CASE 14

At the 126th meeting on 7 April 1947, in connexion with the Greek question, the representative of the USSR stated<sup>80</sup> that aid to Greece "could be carried out with the participation of a special commission of the Security Council which would supervise the proper realization of such aid in the interests of the Greek people". At the 131st meeting on 18 April, he proposed the establishment of a special commission, composed of representatives of the members of the Security Council, the task of which should be to ensure, through proper supervision, that aid which Greece might receive from the outside be used only in the interests of the Greek people. The draft resolution was rejected, by 2 votes in favour, 4 against, and 5 abstentions.<sup>81</sup>

## CASE 15

At the 153rd meeting on 8 July, in connexion with the Greek question, the representative of the USSR proposed the creation of a special commission which, by appropriate supervision, would ensure that foreign economic assistance to Greece be used only in the interests of the Greek people.<sup>82</sup> At the 174th meeting on 4 August, the USSR draft resolution was rejected by 2 votes in favour and 9 against.<sup>83</sup>

## CASE 16

At the 147th meeting on 27 June 1947, in connexion with the Greek frontier incidents question, the Security Council began the consideration of the Report of the Commission of Investigation which had, in the majority proposals, recommended the establishment of a small commission or a single commissioner.<sup>84</sup> At the same meeting, the representative of the United States submitted a draft resolution<sup>85</sup> to establish a commission composed of the members of the Security Council for the purpose of restoring normal conditions along the frontiers between Greece on the one hand and Albania, Bulgaria and Yugoslavia on the other. At the 165th meeting on 24 July 1947, the representative of France declared that it would be best if the proposed commission were composed of countries whose general political position was not directly concerned with the case. He opposed the idea of having a single commissioner in view of the difficulties involved in appointing such a person. He suggested the establishment of a

commission composed of seven members—six non-permanent members of the Council, appointed without reference to their status as members of the Council, and a seventh member such as Sweden. At the 166th meeting on 24 July 1947, the representative of the United States observed that a commission representing the entire Council would more effectively represent the moral as well as legal responsibilities for the maintenance of international peace and security with which the Council had been charged under the Charter. His position was supported by the representatives of China and the United Kingdom. The representative of Australia, who favoured a commission composed of the six non-permanent members of the Council, stated that, on the basis of past experience, a small commission would perform more effectively the functions of mediation and conciliation. The representatives of Belgium and Brazil supported the Australian view. The representative of Colombia suggested a commission composed of seven members, three permanent and four non-permanent members of the Council, which might act more effectively in bringing about an understanding between those permanent members of the Council which were interested in the question. The representative of Syria recalled that the report of the Commission of Investigation had proposed a single commissioner, and he thought that this solution might be preferable to others.<sup>86</sup>

At the 170th meeting on 29 July 1947, the United States draft resolution, as amended, was put to the vote, paragraph by paragraph and then as a whole, and was not adopted. There were 9 votes in favour and 2 against (one vote against being that of a permanent member).<sup>87</sup>

## CASE 17

At the 177th meeting on 6 August 1947, in connexion with the Greek question, the representative of Australia proposed that Greece, on the one hand, and Albania, Yugoslavia and Bulgaria on the other hand, should be directed to enter into direct negotiations at once in an endeavour to relieve tension and with a view to the resumption of normal and peaceful diplomatic relations. To ensure this decision being put into effect, there should be appointed observers with the duty of reporting directly to the Council.<sup>88</sup> At the 188th meeting on 19 August, the draft resolution was not adopted. There were 9 votes in favour and 2 against (one vote against being that of a permanent member).<sup>89</sup>

## CASE 18

At the 192nd meeting on 22 August 1947, in connexion with the Indonesian question (II), the representative of Australia proposed to request the Governments of the Netherlands and the Republic of Indonesia to submit all matters in dispute between them to arbitration by a commission consisting of one arbitrator selected by the Government of the Republic of Indonesia, one by the Government of the Netherlands,

<sup>79</sup> 70th meeting: p. 412.

<sup>80</sup> 126th meeting: p. 701.

<sup>81</sup> 131st meeting: p. 808.

<sup>82</sup> 153rd meeting: p. 1255.

<sup>83</sup> 174th meeting: p. 1730.

<sup>84</sup> S/360, O.R., 2nd year, Sp. Suppl. No. 2.

<sup>85</sup> S/391, 147th meeting: pp. 1124-1125.

<sup>86</sup> For texts of relevant statements see:

165th meeting: France, pp. 1499-1500.

166th meeting: Australia, pp. 1501-02; Belgium, p. 1510; Brazil, p. 1515; China, pp. 1511-12; Colombia, pp. 1505-06; Syria, pp. 1507-08; United Kingdom, pp. 1509-10; United States, pp. 1503-04.

<sup>87</sup> 170th meeting: p. 1612.

<sup>88</sup> 177th meeting: p. 1808.

<sup>89</sup> 188th meeting: p. 2094.

and one by the Security Council.<sup>90</sup> At the 194th meeting on 25 August, the draft resolution was rejected, by 3 votes in favour and 8 abstentions.<sup>91</sup>

#### CASE 19

At the 194th meeting on 25 August 1947, in connexion with the Indonesian question (II), the representative of the USSR submitted several amendments to a joint Australian-Chinese draft resolution, one of which provided for the establishment of a commission composed of the States members of the Security Council "to supervise the implementation of the decision of the Security Council of 1 August". The amendments were not adopted. There were 7 votes in favour, 2 against (one vote against being that of a permanent member) and 2 abstentions.<sup>92</sup>

#### CASE 20

At the 194th meeting on 25 August 1947, in connexion with the Indonesian question (II), the representative of Poland submitted an amendment to the Australian draft resolution<sup>93</sup> providing for the establishment of a commission composed of the eleven members of the Security Council who would act "in the capacity of mediators and arbitrators between the Government of the Netherlands and the Government of the Republic of Indonesia". The amendment was rejected, by 3 votes in favour, 4 against, and 4 abstentions.<sup>94</sup>

#### CASE 21

At the 320th meeting on 15 June 1948, in connexion with the Palestine question, the representative of the USSR proposed "1) To attach to the United Nations Mediator military observers from thirty to fifty persons. 2) The military observers should be appointed by member States of the Security Council wishing to participate in the designation of such observers, excluding Syria."<sup>95</sup> The draft resolution was rejected by 2 votes in favour and 9 abstentions.<sup>96</sup>

#### CASE 22

At the 392nd meeting on 24 December 1948, in connexion with the Indonesian question (II), the representative of the USSR proposed to set up a commission composed of all States members of the Security Council "to supervise the fulfilment of the resolution on the cessation of military operations and the withdrawal of troops, and to assist in settling the conflict as a whole between the Netherlands and the Indonesian Republic".<sup>97</sup> The draft resolution, voted upon paragraph by paragraph, was rejected, each paragraph having failed to obtain the affirmative votes of 7 members.<sup>98</sup>

#### CASE 23

At the 455th meeting on 12 December 1949, in connexion with the Indonesian question (II), the representative of the Ukrainian SSR submitted a draft

resolution to establish a commission "composed of representatives of the States members of the Security Council, which should observe the implementation of paragraphs 1 and 2 above and also to investigate the activities of the Netherlands authorities which have taken the form of brutal terrorism, murder and persecution of the democratic leaders of the Indonesian people..."<sup>99</sup> At the 456th meeting on 13 December, the draft resolution was rejected by 2 votes in favour and 9 against.<sup>100</sup>

#### CASE 24

At the 501st meeting on 12 September 1950, in connexion with the complaint of bombing by air forces of the territory of China, the Security Council considered a United States draft resolution "to establish a commission to investigate on the spot and report as soon as possible with regard to the allegations contained in documents S/1722 and S/1743. The commission shall be composed of two representatives appointed, one by the Government of India, and one by the Government of Sweden."<sup>101</sup> The draft resolution was not adopted. There were 7 votes in favour, 1 against (being that of a permanent member), 2 abstentions, and one member not participating.<sup>102</sup>

### B. NOT INVOLVING, TO FACILITATE THEIR WORK, MEETINGS AT PLACES AWAY FROM THE SEAT OF THE ORGANIZATION

#### I. Subsidiary organs established

##### a. Standing Committees

##### i. Committee of Experts

#### CASE 25

At the 1st meeting on 17 January 1946, after the adoption by the Security Council of the provisional rules of procedure recommended by the Preparatory Commission,<sup>103</sup> the President (Australia) proposed that a "Committee of Experts", composed of a representative for each member of the Council, be set up for the consideration of the provisional rules of procedure and that the Committee should "submit a report to the Council as soon as possible".

The proposal of the President was adopted without objection.<sup>104</sup>

#### CASE 26

At the 6th meeting on 1 February 1946, in connexion with the communications received from non-governmental bodies and persons concerning the Greek and the Indonesian questions, the President (Australia) proposed that the Committee of Experts be requested to indicate how these communications should be dealt with. The President further stated that the Committee of Experts would not deal with the communications themselves but would "suggest what procedure should be adopted regarding their receipt and, if necessary, their distribution to members of the Council".

The proposal of the President was adopted without objection<sup>105</sup> and, at the 31st meeting on 9 April, the

<sup>90</sup> S/512, 193rd meeting: p. 2174, footnote 1.

<sup>91</sup> 194th meeting: p. 2209.

<sup>92</sup> 194th meeting: pp. 2197, 2199.

<sup>93</sup> S/448/Add.1, 187th meeting: p. 2058, footnote 1; 194th meeting, p. 2209.

<sup>94</sup> 194th meeting: p. 2209.

<sup>95</sup> S/841, 320th meeting: p. 8.

<sup>96</sup> 320th meeting: p. 11.

<sup>97</sup> S/1148 and S/1148/Add.1, 392nd meeting: p. 3.

<sup>98</sup> 392nd meeting: pp. 41-42.

<sup>99</sup> S/1433, 455th meeting: p. 27.

<sup>100</sup> 456th meeting: p. 35.

<sup>101</sup> S/1752, 501st meeting: pp. 4-5.

<sup>102</sup> 501st meeting: p. 28.

<sup>103</sup> S/28.

<sup>104</sup> 1st meeting: p. 11.

<sup>105</sup> 6th meeting: p. 72.

Council considered a report of the Committee of Experts and adopted, without objection, the provisional procedure for dealing with communications from private individuals and non-governmental bodies, which became an appendix to the provisional rules of procedure.<sup>106</sup>

## CASE 27

At the 23rd meeting on 16 February 1946, the President (Australia) suggested that consideration of the report of the Committee of Experts on the provisional rules of procedure<sup>107</sup> be postponed and that meanwhile the Committee of Experts should further review those rules in the light of the experience gained by the Security Council during its first month of activities. The President's proposal was adopted without objection.<sup>108</sup>

At the 31st meeting on 9 April, the Council considered the report of the Committee of Experts<sup>109</sup> and adopted, with amendments, chapters I to V of the provisional rules of procedure.<sup>110</sup> At the 41st meeting on 16 May, the Council considered the report of the Committee of Experts<sup>111</sup> and adopted, with amendments, chapters VI to IX of the provisional rules of procedure, deciding to defer discussion on chapter X, dealing with the admission of new Members.<sup>112</sup> At the 42nd meeting on 17 May, chapter X, as recommended by the Committee of Experts, was adopted by 10 votes in favour and 1 against.<sup>113</sup> At the 44th meeting on 6 June, the Council considered a report of the Committee of Experts<sup>114</sup> and adopted two additional provisions regarding the functions of the Secretary-General in relation to the Security Council.<sup>115</sup> At the 48th meeting on 24 June, the Council considered a report of the Committee of Experts<sup>116</sup> and adopted an additional rule concerning the Presidency of the Security Council.<sup>117</sup>

## CASE 28

At the 23rd meeting on 16 February 1946, the President (Australia) called attention to a report of the Military Staff Committee<sup>118</sup> submitting a draft Statute of the Military Staff Committee and draft Rules of Procedure of the Military Staff Committee and its Secretariat. The President proposed to refer that report to the Committee of Experts for examination and report to the Council. The proposal of the President was adopted without objection.<sup>119</sup>

On 24 July 1946, a revised text of the report of the Military Staff Committee was submitted to the Security Council and transmitted for examination to the Committee of Experts.<sup>120</sup> The Committee of Experts discussed the draft Statute and Rules of Procedure of the Military Staff Committee at twenty-seven meetings and submitted a report with recom-

mendations, including reservations made by various delegations. This report was circulated as an official document but was not placed on the agenda of the Council.<sup>121</sup>

## CASE 29

At the 33rd meeting on 16 April 1946, in connexion with the Iranian question, the President (China) proposed to refer to the Committee of Experts, for examination and report, a memorandum from the Secretary-General concerning the retention of the Iranian question on the agenda.<sup>122</sup> The representative of the USSR suggested, and the President agreed to include in his proposal, a time limit of two days for the conclusion of this task by the Committee.<sup>123</sup> The proposal of the President, as amended, was adopted without objection.<sup>124</sup> At the 36th meeting on 23 April, the President (Egypt) called attention to the report of the Committee of Experts,<sup>125</sup> and stated that "the Committee has not been able to reach a unanimous decision on the matter" and that he did not believe that "the question needs any further discussion".<sup>126</sup>

## CASE 30

At the 50th meeting on 10 July 1946, the President (Mexico) called attention to the letter dated 1 May 1946 from the President of the International Court of Justice to the Secretary-General with regard to the conditions under which the International Court of Justice should be open to States not Parties to the Statute.<sup>127</sup> A memorandum by the Secretary-General was attached. The President proposed to refer the question to the Committee of Experts for examination and report to the Council. The proposal of the President was adopted without objection.<sup>128</sup>

At the 76th meeting on 15 October, the Council considered the report of the Committee of Experts,<sup>129</sup> which included a draft resolution recommended for adoption by the Security Council. The Council adopted unanimously the draft resolution recommended by the Committee of Experts.<sup>130</sup>

## CASE 31

At the 78th meeting on 30 October 1946, the President (United Kingdom) called attention to the letter dated 26 October 1946 from the Chief of the Swiss Federal Political Department to the Secretary-General inquiring as to the conditions on which Switzerland might become a Party to the Statute of the International Court of Justice.<sup>131</sup> The representative of Mexico proposed that the matter be referred to the Committee of Experts for examination and report. The representative of the USSR proposed that a definite date be specified for the submission of the report of the Committee.<sup>132</sup> The proposal of the representative of Mexico, with the specification made by

<sup>106</sup> 31st meeting: p. 118; S/29, annex A. See also chapter I, part IX.

<sup>107</sup> S/6, O.R., 1st year, 1st series, Suppl. No. 2, pp. 1-8.

<sup>108</sup> 23rd meeting: p. 368.

<sup>109</sup> S/29.

<sup>110</sup> 31st meeting: pp. 100-116; S/35, O.R., 1st year, 1st series, Suppl. No. 2, pp. 15-20.

<sup>111</sup> S/57, O.R., 1st year, 1st series, Suppl. No. 2, pp. 20-30.

<sup>112</sup> 41st meeting: pp. 253-267.

<sup>113</sup> 42nd meeting: p. 277.

<sup>114</sup> S/71, O.R., 1st year, 1st series, Suppl. No. 2, pp. 39-40.

<sup>115</sup> 44th meeting: pp. 310-311.

<sup>116</sup> S/88, O.R., 1st year, 1st series, Suppl. No. 2, pp. 41-43.

<sup>117</sup> 48th meeting: p. 382.

<sup>118</sup> S/10.

<sup>119</sup> 23rd meeting: p. 369.

<sup>120</sup> S/115.

<sup>121</sup> S/421, S/576 and S/1456.

<sup>122</sup> S/39, 33rd meeting: pp. 143-145.

<sup>123</sup> 33rd meeting: p. 145.

<sup>124</sup> 33rd meeting: p. 145.

<sup>125</sup> S/42, O.R., 1st year, 1st series, Suppl. No. 2, pp. 47-50.

<sup>126</sup> 36th meeting: p. 201. For text of report, see chapter II, Case 56.

<sup>127</sup> S/99, O.R., 1st year, 2nd series, Suppl. No. 1, pp. 8-12.

<sup>128</sup> 50th meeting: pp. 7-8.

<sup>129</sup> S/169, O.R., 1st year, 2nd series, Suppl. No. 6, pp. 153-156.

<sup>130</sup> 76th meeting: p. 468. For text, see chapter VI, Case 25.

<sup>131</sup> S/185, O.R., 1st year, 2nd series, Suppl. No. 7, pp. 157-158.

<sup>132</sup> 78th meeting: p. 486.

the President of a short term for the submission of the report, was adopted without objection.<sup>133</sup> At the 80th meeting on 15 November 1946, the Council considered the report of the Committee of Experts which included a recommendation to be sent by the Council to the General Assembly,<sup>134</sup> and adopted the report without objection.<sup>135</sup>

## CASE 32

At the 81st meeting on 29 November 1946, the Security Council considered General Assembly resolution 36 (I) of 19 November 1946, requesting the Security Council to appoint a committee to confer with a committee of the General Assembly "with a view to preparing rules governing the admission of new Members".<sup>136</sup> The President (United States) proposed that the matter be referred to the Committee of Experts with the instruction that it "appoint a sub-committee from its number to meet with a committee on procedures of the General Assembly in order to obtain the views of the General Assembly on this subject". The sub-committee, the President further proposed, "should not carry specific proposals but should listen to the suggestions which may be made by the Assembly's committee and should then report on these suggestions back to the Council".<sup>137</sup> The President's proposal was adopted by the Council without objection.

At the 197th meeting on 27 August 1947, the Council considered the report of the Committee of Experts.<sup>138</sup> The Committee reported that the representatives of China (President), Brazil and Poland had been appointed to the sub-committee set up under the instructions of the Council of 29 November 1946. In submitting the report to the Council, the Rapporteur of the Committee of Experts stated that it was "based upon the report of the sub-committee of the Committee of Experts which met with the General Assembly committee, and upon the records of the Committee of Experts".<sup>139</sup> The report recommended certain amendments in the rules of procedure on the admission of new Members. These recommendations were sponsored by the majority of the Committee, the representatives of Australia and Colombia having reserved the position of their delegations. Amendments to the report of the Committee of Experts were submitted at the Council meeting by the representative of Australia.<sup>140</sup> A discussion ensued during which the representative of China submitted a draft resolution to the effect that the Council instruct the sub-committee of the Committee of Experts with regard to its future negotiations with the General Assembly committee on the rules of procedure governing the admission of new Members.<sup>141</sup> The four Australian amendments were rejected, having failed to obtain the affirmative votes of seven members of the Council.<sup>141</sup> The Chinese draft resolution was adopted by 10 votes in favour, none against, with 1 abstention. The Council further approved the report of the Committee of Experts without objection.<sup>142</sup>

<sup>133</sup> 78th meeting: p. 487.

<sup>134</sup> S/191, O.R., 1st year, 2nd series, Suppl. No. 8, pp. 159-161.

<sup>135</sup> 80th meeting: p. 502. For text, see chapter VI, Case 8.

<sup>136</sup> S/196.

<sup>137</sup> 81st meeting: pp. 503-504.

<sup>138</sup> S/520, O.R., 2nd year, Suppl. No. 19, pp. 157-164.

<sup>139</sup> 197th meeting: p. 2256.

<sup>140</sup> S/520/Add.1, O.R., 2nd year, Suppl. No. 19, pp. 164-165.

<sup>141</sup> 197th meeting: pp. 2256, 2266.

<sup>142</sup> 197th meeting: pp. 2263-2264.

## CASE 33

At the 138th meeting on 4 June 1947, the President (France) called attention to General Assembly resolution 88 (I) of 19 November 1946, concerning the application of Articles 11 and 12 of the Statute of the International Court of Justice.<sup>143</sup>

The representative of the United States proposed in a draft resolution that the Security Council should immediately adopt an identical rule of procedure. The President (France) stated: "Another method of procedure would be to refer the question, for a rapid study, to the Committee of Experts which is attached to us for the study of legal questions. In my opinion, the second method would be more in conformity with our customs." The representative of the USSR favoured the immediate examination and adoption of the United States draft resolution. However, "if even one member of the Security Council" had any doubt whatsoever, he would not object to referring the matter to the Committee of Experts "in conformity with our usual procedure, since resolutions are not usually adopted at the same meeting at which they are introduced". The President shared the view "that if one member of the Council asks that the text should be referred to the Committee of Experts, it should be done". No such request being made, the President noted "that the Council members are unanimous in wishing to examine this text at once" and invited comments on the substance of the draft resolution.<sup>144</sup>

## CASE 34

At the 197th meeting on 27 August 1947, the Council considered General Assembly resolution 40 (I) of 13 December 1946 with regard to voting procedure in the Security Council.<sup>145</sup> The representative of the United States proposed that certain recommendations included in the General Assembly resolution be referred to the Committee of Experts, with instructions to consider the matter and to report to the Council as to what action it might take to comply with the recommendations of the General Assembly. The representatives of the United Kingdom and France also favoured reference of the General Assembly resolution to the Committee of Experts.<sup>146</sup> The representative of Colombia raised objection, and the Council decided to refer the subject as a whole to the Committee of Experts by a vote of 7 in favour, none against and 4 abstentions.<sup>147</sup>

Draft rules of procedure of the Security Council relating to voting were submitted by the representative of the United States on the Committee of Experts.<sup>148</sup>

## CASE 35

At the 220th meeting on 15 November 1947, the Security Council considered the respective functions of the Security Council and the Trusteeship Council

<sup>143</sup> 197th meeting: p. 2266.

<sup>144</sup> 138th meeting: p. 949.

<sup>145</sup> 138th meeting: p. 951.

<sup>146</sup> S/237.

<sup>147</sup> For texts of relevant statements see:

197th meeting: President (Syria), pp. 2267-2268, 2277-2278, 2279, 2281; Australia, pp. 2271-2274, 2280-2281; Colombia, pp. 2278-2279, 2280; France, p. 2280; Poland, pp. 2274-2276; USSR, 2270; United Kingdom, 2280; United States, pp. 2268-2269, 2270-2271, 2276-2277, 2278.

<sup>148</sup> 197th meeting: p. 2281.

<sup>149</sup> S/C.1/160, 2 September 1947.

with regard to the trusteeship system as applied to strategic areas.<sup>149</sup> Discussion centred on a proposal submitted by the representative of the USSR to refer the question to the Committee of Experts, with instructions to submit a report with recommendations within a short period of time. The representative of Belgium suggested that "the Committee should be instructed to make a juridical analysis of the situation as it exists at present, for the information of the Security Council". The representative of Australia agreed that the matter "should be gone into carefully by the Committee of Experts with a view to apprising the Security Council fully of its position".<sup>150</sup> The President (United States) put to the vote the proposal of the representative of the USSR, with the direction that the report of the Committee should be submitted in four weeks, and the proposal was adopted unanimously.<sup>151</sup>

At the 224th meeting on 19 December 1947, the President (Australia) called attention to the letter dated 12 December 1947 from the Chairman of the Committee of Experts to the President of the Council,<sup>152</sup> explaining that because of "unexpected complications" encountered by the Committee it had not been able to report to the Council within the specified time. The President suggested that the Council should take note of the communication from the Committee. The representative of Poland submitted a draft resolution on the substance of the question. The President stated that the Polish draft resolution was out of order. His ruling was challenged by the representative of the USSR, but upheld by the Council<sup>153</sup> and the Council took note of the communication of the Committee of Experts.<sup>154</sup>

At the 324th meeting on 18 June 1948, the Council began consideration of the report of the Committee of Experts.<sup>155</sup> The Committee submitted a draft resolution, recommended by the majority and "applicable to strategic areas generally". Discussion continued at the 327th meeting on 25 June, and at the 415th meeting on 7 March 1949. At the latter meeting the report of the *Ad Hoc* Committee of the Council<sup>156</sup> designated to confer with a similar committee of the Trusteeship Council was also considered. The draft resolution recommended by the majority of the Committee of Experts was adopted by 8 votes in favour, none against, with 3 abstentions.<sup>157</sup>

## CASE 36

At the 305th meeting on 26 May 1948, in connexion with the Czechoslovak question, after a draft resolution to set up a sub-committee had been rejected,<sup>158</sup> the representative of Argentina reminded the Council of his draft resolution to instruct the Committee of Experts to obtain "further testimonial evidence, both

oral and written", regarding the situation in Czechoslovakia".<sup>159</sup> In justification of his proposal, he said that the Security Council, having been unable to entrust the task of collecting information to a body especially created for that purpose, could entrust it to a body already existing which dealt exclusively with procedural matters. The representative of the USSR contended that this proposal could hardly be distinguished from the proposal to set up a special body for the purpose. The purpose of both was the carrying out of an investigation.<sup>160</sup> The Argentine proposal was not discussed subsequently.

## CASE 37

At the 423rd meeting on 8 April 1949, the Council considered the letter dated 30 March 1949 from the Swiss Office for Liaison with the United Nations to the Secretary-General<sup>161</sup> transmitting a letter from the Head of the Government of the Principality of Liechtenstein concerning the latter's request to become a Party to the Statute of the International Court of Justice. The President (Egypt) proposed that, in accordance with precedent, the matter be referred to the Committee of Experts. The representative of the USSR raised certain objections on the grounds that Liechtenstein was not a free and independent State and could not, therefore, become a Party to the Statute of the International Court of Justice. He requested that the question of reference to the Committee be put to the vote.<sup>162</sup> The proposal of the President was adopted by 9 votes in favour, none against, with 2 abstentions.<sup>163</sup> At the 432nd meeting on 27 July, the Council considered the report of the Committee of Experts which included a recommendation to be sent to the General Assembly.<sup>164</sup> The President, in his capacity as representative of the Ukrainian SSR, and the representative of the USSR, raised objections to the recommendation of the Committee.<sup>165</sup> The recommendation contained in the report of the Committee of Experts was adopted by 9 votes in favour, none against, with 2 abstentions.<sup>166</sup>

## CASE 38

At the 462nd meeting on 17 January 1950, the Security Council considered an Indian draft amendment to the provisional rules of procedure concerning representation and credentials.<sup>167</sup> The President (China) suggested that the matter be referred to the Committee of Experts. The representative of India, who had previously suggested "that we should set up a committee—perhaps a committee of experts—for the purpose of suggesting amendments to our rules of procedure regarding representation and credentials", supported the President's suggestion, proposing further that a time limit be set for the Committee's report.<sup>168</sup>

<sup>149</sup> S/599, 220th meeting: pp. 2753-2754, footnote 1.

<sup>150</sup> For texts of relevant statements see:

220th meeting: President (United States), pp. 2754-2756, 2757, 2758-2761, 2762, 2763; Australia, pp. 2761-2762; Belgium, p. 2761; Syria, pp. 2757-2758; USSR, pp. 2756, 2763; United Kingdom, pp. 2756, 2757, 2761.

<sup>151</sup> 220th meeting: p. 2763.

<sup>152</sup> S/621, 224th meeting: p. 2792, footnote 3.

<sup>153</sup> 224th meeting: pp. 2812-2817.

<sup>154</sup> 224th meeting: p. 2817.

<sup>155</sup> S/642, O.R., 3rd year, Suppl. for June 1948, pp. 1-10.

<sup>156</sup> S/916 and S/916/Add.1, O.R. 4th year, Suppl. for March 1949, pp. 1-5.

<sup>157</sup> 415th meeting: p. 9.

<sup>158</sup> See Case 64.

<sup>159</sup> S/782, O.R., 3rd year, Suppl. for May 1948, p. 99.

<sup>160</sup> 305th meeting: p. 3.

<sup>161</sup> S/1298 and S/1298/Corr.1, O.R., 4th year, Suppl. for April 1949, p. 6.

<sup>162</sup> 423rd meeting: pp. 16-17.

<sup>163</sup> 423rd meeting: p. 17.

<sup>164</sup> S/1342, O.R., 4th year, Suppl. for July 1949, pp. 2-3.

<sup>165</sup> For texts of relevant statements see:

432nd meeting: President (Ukrainian SSR), pp. 2-3; Egypt, pp. 3-5; USSR, pp. 5-6.

<sup>166</sup> 432nd meeting: p. 6.

<sup>167</sup> S/1447, O.R., 5th year, Suppl. for 1 Jan. - 31 May 1950, pp. 2-3.

<sup>168</sup> 462nd meeting: p. 12.

The Council agreed, without objection, to refer the proposed amendment of the representative of India to the Committee of Experts for study and report. The Committee was authorized to suggest to the Council alternative plans, and was requested to render an interim or a final report within one month's time.<sup>169</sup>

At the 468th meeting on 28 February, the Council considered the report of the Committee of Experts<sup>170</sup> recommending the adoption of the proposed amendment to rule 13 of the provisional rules of procedure concerning credentials; and the postponement of a decision on the proposed amendment to rule 17 concerning representation.<sup>171</sup>

The Council decided, without objection, to adopt the amendment to rule 13 of the provisional rules of procedure, and to approve the conclusions reached by the Committee of Experts with regard to the proposed amendment to rule 17.<sup>172</sup>

## ii. Committee on Admission of New Members<sup>173</sup>

### (a) Establishment and organization

#### CASE 39

At the 42nd meeting on 17 May 1946, the Council considered rules of procedure concerning the admission of new Members, which included the following provision:<sup>174</sup>

"The Secretary-General shall immediately place the application for membership before the representatives on the Security Council. Unless the Security Council decides otherwise, the application shall be referred by the President to a committee of the Security Council upon which each member of the Security Council shall be represented. The committee shall examine any application referred to it and report its conclusions thereon to the Council not less than thirty-five days in advance of a regular session of the General Assembly, or, if a special session of the General Assembly is called, not less than fourteen days in advance of such session."

This text (later rule 59 of the provisional rules of procedure) was provisionally adopted by the Council by 10 votes in favour and 1 against, along with other rules regarding the admission of new Members.<sup>175</sup>

#### CASE 40

At the 42nd meeting on 17 May 1946, the Council considered a draft resolution submitted by the representative of the United States to the effect that:<sup>176</sup>

"Applications for membership which have been or may be received by the Secretary-General not later than 15 July 1946 shall be referred to a committee composed of a representative of each of the members

of the Security Council for examination and report to the Council not later than 1 August 1946."

In support of his proposal, the representative of the United States stated that what was called for, in addition to the rules of procedure which had just been adopted, was "a resolution specifying further the procedure that the Security Council intends to follow in considering membership applications which have been received or will be received by August of this year". He added that the proposed resolution merely supplemented, to meet the immediate situation, the rules of procedure during the initial period of functioning of the Council, when "a number of applications will be presented" which should be given "the fullest consideration" and "should all, therefore, be referred to the committee provided for in the rules of procedure". The representative of the USSR remarked that the United States draft resolution "does not add anything new from the point of view of method and the basic rules of procedure", and, in fact, "duplicates the rules of procedure that have been adopted". The adoption of such a draft resolution by the Council "would be a useless and unnecessary act". However, should the other members favour the adoption, the representative of the USSR would not oppose it.<sup>177</sup> The representative of Australia proposed a drafting amendment which was accepted by the representative of the United States. The Council then adopted unanimously the United States draft resolution, as revised.<sup>178</sup> In view of the postponement of the opening of the General Assembly session, the Council, upon the proposal of the President (Netherlands), decided, at the 51st meeting on 24 July, to change the time limits indicated in its decision of 17 May 1946.<sup>179</sup>

#### CASE 41

At the 52nd meeting on 7 August 1946, the Council considered the letter<sup>180</sup> dated 2 August 1946 from the Chairman of the Committee on the Admission of New Members, referring to the Council the texts of two resolutions which the Committee had adopted by majority vote after a general discussion regarding its work. These resolutions, which had been submitted by the representatives of Australia and China respectively, read as follows:

1. "The Committee will consider written statements of facts from any of the applicant States or from any Member of the United Nations bearing on the applications which the Committee has been instructed to examine."

2. "The Committee considers that it has the right to ask information from Governments of Member States or applicants having bearing upon the applications before the Council."

The Committee requested that these resolutions be brought to the attention of the Council since the minority view was "that in adopting both resolutions the Committee went beyond its terms of reference".

The representatives of the USSR, objecting to these resolutions, stated:

<sup>177</sup> For texts of relevant statements see:

42nd meeting: Australia, pp. 283-284, 285; Poland, pp. 281-284, 285; USSR, pp. 282-283; United States, pp. 278-280, 281, 284-285.

<sup>178</sup> 42nd meeting: p. 285.

<sup>179</sup> 51st meeting: pp. 15-16.

<sup>180</sup> 52nd meeting: pp. 18-19.

<sup>169</sup> 462nd meeting: p. 13.

<sup>170</sup> S/1457, S/1457/Corr.1, O.R., 5th year, Suppl. for 1 Jan. - 31 May 1950, pp. 16-18.

<sup>171</sup> For texts of relevant statements see:

468th meeting: President (Cuba), pp. 9-10, 11; India, pp. 10-11; United States, p. 11.

<sup>172</sup> 468th meeting: p. 11.

<sup>173</sup> For the question of reference or non-reference of applications for membership to the Committee, see chapter VII, part IV.

<sup>174</sup> S/57, O.R., 1st year, 1st series, Suppl. No. 2, p. 30.

<sup>175</sup> 42nd meeting: p. 277.

<sup>176</sup> 42nd meeting: p. 279.



“... the Committee went a little further than it should have done and itself decided its own rights and functions with regard to the examination of applications for membership. I refer to the decision concerning the right of the Committee to apply directly to States to make appropriate enquiries. I repeat that in my opinion only the Security Council, the constitutional organ of the United Nations, should possess such a right and the Security Council may, if it deems it expedient and necessary, transmit to the Committee for examination all—I stress the word—all the material and documents relating to any application for membership.”

The representative of Poland held “that the Committee, in adopting both resolutions, went beyond its rights and terms of reference”, and drew attention to the precedent set in the case of the sub-committee on the Spanish question which had received “a special authorization from the Council to ask for information”. In supporting both resolutions, the representative of the United States stated:

“The Committee was established by the Council as a committee of the whole, each member of the Council being represented on the Committee, and it was intended by the Council that this Committee should act as a reviewing body to screen the evidence and to offer its conclusions to the Council. We are reluctant to believe it was intended that, after the Committee had made its report to the Council, interested States should approach the Council itself with new evidence so that the Council would be forced to take the time and trouble to perform what should have been the Committee’s function.”

The representatives of China, Australia, France and Mexico remarked that both resolutions had been adopted by the Committee within its powers, as laid down by the Council. The representative of Egypt stated that his delegation had abstained from voting for either of the resolutions because of doubts “as to the power of the Committee to take exclusively in its own hands the interpretation of the mandate given to it by the Security Council”. He considered, however, that in order to “expedite its work and do it thoroughly” the Committee “should have as much power and as wide a range of activity as possible”.

At the end of the debate, the President (Netherlands) stated that the first clear conclusion from the discussion was “that applications from the Governments of States wishing to become Members of the United Nations will be referred to the Committee as a matter of course”. The President further stated that there was no objection “to the Committee considering written statements from any of the applicant States, or from any Member of the United Nations, bearing on the applications which the Committee has been instructed to examine”. The President referred finally to “a certain difference of opinion” among members of the Council “on whether the Committee may approach Governments of Member States or of applicants for the purpose of asking them for information having a bearing on the applications for admission before the Security Council”. In this connexion, the President mentioned the need of avoiding unnecessary delays which would result from consultations between the Committee and its parent body, the Security Council. Should questions of principle arise, such consultations might be deemed necessary. The Commit-

tee was in such cases “bound to proceed prudently and circumspectly”. It should be borne in mind that the members of the Committee “are at all times in a position to seek the views of the members of the Council whom they represent”. In conclusion, the President stated that “since the two resolutions of the Committee did not provoke any counter-proposal in the sense that the Council was not asked to replace them by anything else, these two resolutions now stand and will henceforth govern the Committee’s discussions, subject to the proviso that it will, of course, be guided by today’s debate”.<sup>181</sup>

There was no objection to this statement by the President.<sup>182</sup>

## CASE 42

At the 54th meeting on 28 August 1946, the Council considered the first report of the Committee on the Admission of New Members. In the initial paragraphs of the report dealing with organizational and procedural questions,<sup>183</sup> it was stated that the terms of reference of the Committee originated in Article 4 of the Charter, in rules 58 to 60 of the provisional rules of procedure of the Security Council, and in the resolutions adopted by the Council at the 42nd and 51st meetings on 17 May and 24 July respectively.<sup>184</sup>

It was also stated in the report that the Committee had convened on 31 July, and had “adopted the system of rotating chairmanship in conformity with Security Council procedure”. As to its constitution and attendance, the Committee “consisted of a representative from each member of the Security Council”, and “each delegation was represented at every meeting”.

In regard to the examination of applications, it was reported:

“The Committee adopted the chronological order in which the applications had been received by the Secretariat as the order for their discussion, but the discussion of any application was not closed until the final report of the Committee was approved.”

The report also contained the following provision regarding the procedure of the Committee:

“The Committee decided to request the Secretary-General to send telegrams to the Governments of applicant States requesting that they appoint representatives in New York, in order to facilitate the procedure of obtaining additional information if required.”

In connexion with the procedure for the examination of applications, it was stated in the report that in a number of cases,<sup>185</sup> the Committee had appointed a sub-committee to prepare a questionnaire which, once approved or amended by the full Committee, had been presented to the applicant State in order “to obtain additional information on various points as requested

<sup>181</sup> For texts of relevant statements see:

52nd meeting: President (Netherlands), pp. 27-28, 29; Australia, pp. 22-23; China, p. 22; Egypt, pp. 24, 28, 29; France, pp. 24-25; Mexico, pp. 25-27; Poland, p. 25; USSR, pp. 19-20, 28; United States, pp. 20-22.

<sup>182</sup> 52nd meeting: p. 29.

<sup>183</sup> S/133, S/133/Corr.1, O.R., 1st year, 2nd series, Suppl. No. 4, pp. 53-55.

<sup>184</sup> Full texts of these provisions are included in this report, pp. 53-54.

<sup>185</sup> S/133, S/133/Corr.1, O.R., 1st year, 2nd series, Suppl. No. 4, pp. 61, 66, 71.

by several of the representatives" in the course of the Committee discussion. The report also stated that "in order to facilitate the work of the Committee, the Secretariat prepared a working paper containing some basic facts" regarding each applicant State.

As to publicity of meetings, the first report of the Committee stated:

"In accordance with a resolution adopted at the first meeting, the meetings of this Committee were closed. After each meeting, a communique drawn up by the Chairman of the Committee and the Secretariat was released."

At the 152nd meeting on 8 July 1947, the Council decided, after a brief discussion on the matter, to leave the Committee "free to make its decisions" as to whether its meetings would be open or closed.<sup>186</sup>

The second report of the Committee stated:<sup>187</sup>

"The Committee decided that the meetings of the Committee would be open unless otherwise decided."

Concerning the record of meetings, the second report stated:<sup>188</sup>

"The Committee agreed that, as in 1946, summary records be kept. Any representative would have the right to request that the full text of any statement be included as an appendix."

#### CASE 43

At the 55th meeting on 28 August 1946, in the course of the general discussion on the first report of the Committee, the representative of the United States stated:<sup>189</sup>

"The Committee on the Admission of New Members of the Security Council is composed of a representative of each member of the Council. It is, therefore, a committee of the whole. This Committee is established pursuant to the rules of procedure to provide what was thought by the Council to be an effective machinery for the examination of applications and report thereon to the Council. It was clearly contemplated that problems seen by the members in connexion with any application should be brought forward in this committee of the whole so that an opportunity would exist for clarifying the issues, and if possible removing doubts, in advance of the formal proceedings in the Council."

#### (b) Form and content of the reports to the Security Council

##### CASE 44

At the 54th meeting on 28 August 1946, in presenting to the Council the first report of the Committee on the Admission of New Members, the Chairman of the Committee stated:<sup>190</sup>

"The report is a *résumé* of the examination by the Committee of all nine applications submitted to us by the Security Council. It was the leading principle of our work to examine the applications in the light of the requirements of the Charter, which means, first, the applicant State must be peace-loving;

secondly, the applicant State must formally accept the obligations of the Charter; thirdly, the applicant State must be able and willing to carry out the obligations of the Charter in the judgment of the Organization.

"In order to give the members of the Security Council sufficient basis to reach a decision, we tried to collect . . . all information available on applicant States. We discussed each application thoroughly and we decided to present in our report the *résumé* of all statements and to include some basic statements in full, as appendices. We hope that the report may help the Council and perhaps may shorten its discussions by avoiding repetition of declarations.

"Finally, we presented in every case the opinion of the Committee as to whether or not sufficient information has been placed before the Committee to form a basis for decision by members of the Security Council. We also included a statement of the formal attitudes of various delegations regarding the desirability of admission of applicant States."

The first report of the Committee on the Admission of New Members concerned the applications for membership of the following nine States: People's Republic of Albania, Mongolian People's Republic, Afghanistan, The Hashemite Kingdom of Transjordan, Ireland, Portugal, Iceland, Siam, Sweden. The report of the Committee being a description of the discussions and the conclusions reached in the case of every application examined by the Committee, the form of presentation of the applications in the report followed the order adopted by the Committee for the examination of applications, i.e., the chronological order in which they were received by the Secretariat.<sup>191</sup> Following the general discussion on the report, the Council proceeded to consider each individual application in the order indicated in the report.<sup>192</sup>

##### CASE 45

At the 152nd meeting on 8 July 1947, the Council considered the procedure to be followed with regard to the recommendation of General Assembly resolution 35 (I) of 19 November 1946, that the Council re-examine the applications for membership submitted by the following five States: People's Republic of Albania, Mongolian People's Republic, The Hashemite Kingdom of Transjordan, Ireland and Portugal. Upon the proposal of the President (Poland) that the Council "follow the usual procedure", the Council decided to instruct the Committee to re-examine these applications, and report to the Council within the time limit provided for in the rules of procedure.<sup>193</sup>

At the 186th meeting on 18 August 1947, the Council considered the second report of the Committee, concerning the re-examination of the applications of the five above-mentioned States, and, in addition, the examination of six new applications for membership from the following countries referred to the Committee by the Council: Hungary, Italy, Austria, Romania, Yemen and Bulgaria. In presenting the report to the Council, the Chairman of the Committee stated:<sup>194</sup>

<sup>191</sup> S/133, O.R., 1st year, 2nd series, Suppl. No. 4, p. 56.

<sup>192</sup> 55th meeting: pp. 62-63.

<sup>193</sup> 152nd meeting: pp. 1229-1231.

<sup>194</sup> 186th meeting: p. 2031.

<sup>186</sup> For texts of relevant statement see:

152nd meeting: President (Poland), pp. 1231, 1232; Australia, pp. 1229, 1230, 1231.

<sup>187</sup> S/479, O.R., 2nd year, Special Suppl. No. 3, p. 1.

<sup>188</sup> S/479, O.R., 2nd year, Special Suppl. No. 3, p. 1.

<sup>189</sup> 55th meeting: p. 54.

<sup>190</sup> 54th meeting: p. 40.

"The Committee...collected all the information available in order to give the members of the Security Council sufficient basis to reach a decision on these applications. Each application was thoroughly discussed; the report which the Committee is submitting to the Council contains a *résumé* of all statements, and the statements in full of some members of the Committee as appendices...

"The report also contains a summary of the discussion of each application, and a statement of the formal attitudes of various delegations regarding the desirability of the admission of applicant States.

"Finally, the application of the Kingdom of Yemen having met with no objection in the Committee, the the Committee considers that the Security Council may recommend to the General Assembly the admission of Yemen to membership in the United Nations.

"As regards all the other applications, the members of the Security Council will note from the report that unanimity was not reached in the Committee."

## CASE 46

At the 279th meeting on 10 April 1948, the Council considered the report of the Committee concerning the application of the Union of Burma.<sup>195</sup> In presenting the report to the Council, the Chairman of the Committee stated, in part:<sup>196</sup>

"As is stated in the report, the application of the Union of Burma for membership in the United Nations met with a favourable reception in the Committee. The support of the application voiced by each representative is, of course, not final, but subject to ratification by his delegation to the Security Council."

## CASE 47

At the 351st meeting on 18 August 1948, the Council considered the report of the Committee concerning the application of Ceylon.<sup>197</sup> In presenting the report to the Council, the Chairman of the Committee stated:

"The Committee has examined the application... and the majority of the members of the Committee have supported the application of the Government of Ceylon for membership. However, the representatives of the USSR and the Ukrainian SSR have abstained from supporting the application and have reserved the right of their delegations to discuss the matter in the Security Council."<sup>198</sup>

## CASE 48

At the 384th meeting on 15 December 1948, the Council considered the report of the Committee concerning the application of Israel.<sup>199</sup> The representative of France stated that it did not appear "to constitute the report which, under our rules of procedure, (the Committee) should have submitted to the Security Council", since the Committee had not made "a thorough examination of the application", and had indicated "it did not consider that it was at present in possession of the requisite information to enable it to come to any decision". He proposed that the

Committee be asked "to consider the matter again". He added:<sup>200</sup>

"It is possible that the Committee will not agree on any resolution or unanimous opinion, but it should at least provide us with the results of a thorough examination and, if necessary, with an analysis of the various views expressed in the Committee, in fact to put before us a report which really is a report."

The representative of the USSR remarked that the report of the Committee mentioned two alternatives: either to "refer the question back to the Committee, or take a decision on it itself". He considered the first procedure "a pointless formality".<sup>201</sup>

## CASE 49

(i) At the 423rd meeting on 8 April 1949, the Council considered the report of the Committee concerning the application of the Republic of Korea.<sup>202</sup> The representative of the United States stated:<sup>203</sup>

"Now we have before us this report... The Committee voted to record the attitudes of its members, and it will be noted that eight members voted in favour of the application and two—the USSR and the Ukrainian SSR—voted against it."

(ii) At the 439th meeting on 7 September 1949, the Council considered the report of the Committee concerning the application of Nepal, the concluding paragraph of which read:<sup>204</sup>

"A vote was taken on the attitude of the members of the Committee toward the application of Nepal. There were nine votes in favour to two against (Ukrainian SSR and the USSR)."

## iii. Commission for Conventional Armaments

## CASE 50

*Establishment*

At the 88th meeting on 31 December 1946, the Security Council began its discussion of the recommendations contained in General Assembly resolution 41 (I) of 14 December 1946, concerning the general regulation and reduction of armaments and armed forces. In the course of subsequent meetings, various draft resolutions were submitted by the representatives of Australia, Colombia, France, the USSR and the United States, containing proposals for the establishment of a commission. At the 90th meeting on 9 January 1947, the representative of France said that it was not necessary, at that stage, to work out the general principles which should guide the proposed commission, which would be a subsidiary organ of the Council. The Council could, from time to time, instruct the commission in its work, and its discussions could be approved by the Council. He contemplated the establishment of a commission of members of the Council and representatives of the Military Staff Committee, the commission being left free to co-opt or seek the aid of technical experts. The representative of the United Kingdom thought that a political or civilian commission would be the best to undertake

<sup>195</sup> S/706, O.R., 3rd year, Suppl. for April 1948, pp. 1-3.

<sup>196</sup> 279th meeting: p. 2.

<sup>197</sup> S/859, O.R., 3rd year, Suppl. for August 1948, p. 78.

<sup>198</sup> 351st meeting: p. 3.

<sup>199</sup> S/1110, O.R., 3rd year, Suppl. for Dec. 1948, pp. 119-120.

<sup>200</sup> 384th meeting: p. 5.

<sup>201</sup> 384th meeting: p. 12.

<sup>202</sup> S/1281, O.R., 4th year, Suppl. for April 1949, pp. 1-5.

<sup>203</sup> 423rd meeting: p. 8.

<sup>204</sup> S/1382, O.R., 4th year, Suppl. for Sep.-Dec. 1949, pp. 10-12.

the general direction of the work, but doubted the advisability of adding representatives of the Military Staff Committee. At the 93rd meeting on 15 January 1947, the representative of the USSR thought it was up to each Government to appoint either civilian or military representatives. Every representative could have military advisers, and the Military Staff Committee could be consulted.<sup>205</sup>

At the 98th meeting on 4 February 1947, the representative of the United States proposed the establishment of a commission to make recommendations to the Security Council regarding practical measures for the general regulation and reduction of armaments and armed forces, except as regards atomic energy, and for the creation of a committee of the Council to make recommendations regarding the terms of reference of the proposed commission. The representative of the USSR could see no need for a special committee to lay down terms of reference for the proposed commission, which were clearly contained in the resolution of the General Assembly. In order to prepare a common text agreeable to all, the Council decided that the President should consult the authors of the various draft resolutions before the Council.<sup>206</sup> A draft resolution containing alternative texts for paragraph 3, since agreement concerning the jurisdiction of the proposed commission *vis-à-vis* the Atomic Energy Commission had not been reached, was submitted to the Council,<sup>207</sup> and at the 105th meeting on 13 February 1947 there was established, by 10 votes in favour, none against, with 1 abstention, a Commission for Conventional Armaments.<sup>208</sup>

#### Composition

The Commission consisted of representatives of members of the Security Council.

#### Terms of Reference

The Commission was instructed "to prepare and to submit to the Security Council, within the space of not more than three months", proposals (a) "for the general regulation and reduction of armaments and armed forces", and (b) "for practical and effective safeguards in connexion with the general regulation and reduction of armaments".<sup>209</sup> The Commission was also instructed to submit a plan of work to the Council for approval. Matters falling within the competence of the Atomic Energy Commission were excluded from the jurisdiction of this Commission.

At the 152nd meeting on 8 July 1947, the Council considered the Commission's report, to which was attached a plan of work submitted for the Council's approval,<sup>210</sup> and a plan for the organization of the Commission's work submitted for purposes of information. The plan of work, which proposed the consideration by the Commission, under six specific headings, of all suggestions already made, or that might be made, by various delegations for the plan of work, was approved by the Council by 9 votes in favour, none against, with 2 abstentions.<sup>211</sup> The President

(Poland) stated that the plan for the organization of the work did not call for a vote of approval by the Council since it had been submitted for purposes of information.

At the 408th meeting on 10 February 1949, the Council adopted by 9 votes to none, with 2 abstentions, the draft resolution of the representative of the United States<sup>212</sup> that General Assembly resolution 192 (III) of 19 November 1948 be transmitted to the Commission for action, according to its terms.

At the 462nd meeting on 17 January 1950, the Council adopted by 9 votes in favour, with one member not voting and one being absent, the draft resolution of the representative of France<sup>213</sup> that General Assembly resolution 300 (IV) of 5 December 1949 be transmitted to the Commission for further study in accordance with its plan of work.

#### Contents of Reports

The first report of the Commission to the Council and the Council's disposition of it is set forth above.

On 4 August 1949, the Council received the second progress report of the Commission and two resolutions<sup>214</sup> related to the Commission's work up to August 1948. On the same day it also received a working paper<sup>215</sup> adopted by the Commission concerning implementation of General Assembly resolution 192 (III).

At the 450th meeting on 11 October 1949, a United States draft resolution for approval and submission to the General Assembly of the resolution of the Commission attached to the second progress report was not adopted. There were 9 votes in favour and 2 against, one vote against being that of a permanent member.<sup>216</sup> A draft resolution submitted by the representative of the United Kingdom to transmit to the General Assembly the resolutions and report of the Commission was adopted by 9 votes in favour with 2 abstentions.<sup>217</sup>

With respect to the working paper concerning implementation of General Assembly resolution 192 (III), two French draft resolutions were not adopted owing to the negative vote of a permanent member.<sup>218</sup> Another French draft resolution to transmit to the General Assembly the proposals contained in the working paper together with the records of the Council and the Commission discussions was adopted by 9 votes in favour with 2 abstentions.<sup>219</sup>

On 10 August 1950 the Council received the third progress report<sup>220</sup> of the Commission. This report was not placed on the agenda of the Council or considered by the Council.

#### Termination

In accordance with the recommendation of the General Assembly contained in resolution 502 (VI),

<sup>205</sup> S/1248, 408th meeting: p. 19.

<sup>206</sup> 462nd meeting: pp. 8-9.

<sup>207</sup> S/1371, *O.R.*, 4th year, *Suppl. for Sept., Oct., Nov., and Dec. 1949*, pp. 1-2.

<sup>208</sup> S/1372, *O.R.*, 4th year, *Suppl. for Sept., Oct., Nov., and Dec. 1949*, pp. 2-8.

<sup>209</sup> S/1398, 450th meeting: pp. 2-3, 14.

<sup>210</sup> S/1403, 450th meeting: p. 15.

<sup>211</sup> S/1399/Rev.1, *O.R.*, 4th year, *Suppl. for Sept., Oct., Nov., and Dec. 1949*, pp. 12-13, and S/1408/Rev.1, 451st meeting: p. 6; 452nd meeting: pp. 21-23.

<sup>212</sup> S/1410, 452nd meeting: pp. 24-25.

<sup>213</sup> S/1690.

<sup>205</sup> For texts of relevant statements see:

90th meeting: France, pp. 36-37; United Kingdom, p. 39.

93rd meeting: USSR, p. 77.

<sup>206</sup> 98th meeting: p. 157.

<sup>207</sup> S/268.

<sup>208</sup> 105th meeting: p. 274.

<sup>209</sup> S/268/Rev.1/Corr.1, *O.R.*, 2nd year, *Suppl. No. 5*, pp. 58-59.

<sup>210</sup> S/387, 152nd meeting: pp. 1217-1218.

<sup>211</sup> 152nd meeting: p. 1227.

which established under the Security Council a Disarmament Commission, the Council at its 571st meeting on 30 January 1952 adopted a resolution<sup>221</sup> dissolving the Commission for Conventional Armaments.

**b. Drafting and other *ad hoc* committees and sub-committees**

**i. Reference to sub-committees to seek agreement after general discussion**

CASE 51

At the 26th meeting on 26 March 1946, in connexion with the Iranian question, the representative of France proposed the appointment of a sub-committee to examine three motions submitted by the representatives of the USSR, Egypt and Australia, and to report back to the Council the next day. The French draft resolution was adopted by 9 votes.<sup>222</sup> The President (China) nominated forthwith the representatives of the United States, the USSR and France to compose the sub-committee.<sup>223</sup> At the 27th meeting on 27 March, the President informed the Council that the representative of France, on behalf of the sub-committee, had reported to him that no agreement had been reached.<sup>224</sup>

CASE 52

At the 37th meeting on 25 April 1946, in connexion with the Spanish question, the representative of Poland proposed the appointment of a sub-committee, "the function of which would be to find a basis" for unanimous action by the Council. He further stated that his draft resolution, with other proposals, should be submitted to the proposed sub-committee "for study or draft" in order that in a short period it should report to the Council "with its recommendations as to the proper action to be taken". The representative of France remarked that "what the representative of Poland is really proposing is a drafting sub-committee". The representative of the United Kingdom stated that in that case no formal resolution should be adopted, and the representative of Poland agreed to waive a formal draft resolution.

The President (Egypt) stated, without objection, that the representatives of Australia, France and Poland would meet to try to reach an agreed proposal to place before the Council at its next meeting.<sup>225</sup>

At the 38th meeting on 26 April, the representative of Australia reported that, in pursuance of the decision of the Council, he had met with the representatives of France and Poland "with a view to reaching an agreed draft resolution", the text of which he submitted to the Council.<sup>226</sup>

CASE 53

At the 48th meeting on 24 June 1946, in connexion with the Spanish question, the representative of Poland proposed that the President appoint "a drafting committee of three or five members, at his discretion, who

<sup>221</sup> 571st meeting: p. 2.

<sup>222</sup> 26th meeting: pp. 42-43.

<sup>223</sup> 26th meeting: p. 43.

<sup>224</sup> 27th meeting: p. 44.

<sup>225</sup> For texts of relevant statements see:

37th meeting: President (Egypt), p. 237; Australia, pp. 216-217, 229-230, 232-233, 237; Brazil, p. 225; France, pp. 234-235, 236, 238; Mexico, p. 233; Netherlands, pp. 236, 237; Poland, pp. 227-229, 235; USSR, pp. 219-223, 233-234, 235; United Kingdom, p. 235; United States, pp. 217-219.

<sup>226</sup> 38th meeting: pp. 238-239.

should try to prepare a text which would be acceptable to this Council", and report before the next meeting.<sup>227</sup>

The President (Mexico) appointed as members the representatives of Australia, Poland and the United Kingdom.<sup>228</sup> At the 49th meeting on 26 June, the representative of Australia reported that no unanimous agreement had been reached and introduced a text agreed to by the majority, the representative of Poland dissenting.<sup>229</sup>

CASE 54

At the 99th meeting on 4 February 1947, in connexion with the general regulation and reduction of armaments, the representative of Australia proposed that the representatives on the Security Council who had submitted draft resolutions—USSR, United States, France, Colombia and Australia—meet under the guidance of the President, either formally or informally, in order to reach agreement on a joint text. The President (Belgium) agreed on the understanding that the proposed meeting of the drafting group would be an "unofficial meeting"<sup>230</sup> and the proposal was adopted without objection.<sup>231</sup> At the 102nd meeting on 11 February, the President stated that the exchange of views which had taken place had resulted in agreement on the joint text which was then before the Council.<sup>232</sup>

CASE 55

At the 174th meeting on 4 August 1947, in connexion with the Greek frontier incidents question, the representative of Colombia suggested "that a committee should be appointed, composed of the representatives of the delegations which have submitted proposals on the Greek question, in order to ascertain whether it is possible to formulate a new draft resolution which, in the opinion of this sub-committee, would be likely to meet with the approval of the Council."<sup>233</sup> At the 177th meeting on 6 August, after the representative of the United Kingdom had proposed an amendment to request the sub-committee to report its conclusions within a time limit of five days, the Colombian draft resolution, as amended, was adopted by 10 votes in favour, none against, with 1 abstention.<sup>234</sup> The President (Syria) stated that the sub-committee would be composed of the representatives of Australia, Colombia, France, Poland, the USSR, the United Kingdom and the United States. The representatives of Australia and Colombia submitted two draft resolutions which they suggested should be passed on for consideration by the sub-committee. The President agreed. The representative of the USSR expressed objection to such a procedure. The representative of China also objected that the reference of the draft resolutions to the sub-committee went beyond the terms of the resolution adopted. Later, when the President called upon the representative of Greece, the representative of the USSR objected to the procedure of allowing the representative of Greece to speak, since, once a sub-committee had been set up, "all discussion of any proposals

<sup>227</sup> 48th meeting: p. 399.

<sup>228</sup> 48th meeting: p. 400.

<sup>229</sup> 49th meeting: pp. 400-401.

<sup>230</sup> For texts of relevant statements see:

99th meeting: President (Belgium), p. 170; Australia, p. 166.

<sup>231</sup> 99th meeting: p. 172.

<sup>232</sup> 102nd meeting: p. 193.

<sup>233</sup> 174th meeting: p. 1734.

<sup>234</sup> 177th meeting: p. 1806.

whatsoever" on the Greek question should cease until the sub-committee's work had ended. The President ruled that general discussion concerning the Greek question could continue in the Council until the sub-committee presented its report.<sup>235</sup>

At the 180th meeting on 12 August 1947, the representative of Colombia reported that, after two meetings, the sub-committee had "failed entirely to find common ground for formulating a new draft resolution on the Greek question".<sup>236</sup>

#### CASE 56

At the 217th meeting on 3 October 1947, in connexion with the Indonesian question (II), the representative of the United States proposed that the President should appoint a small sub-committee to reconcile amendments to the United States draft resolution. The representatives of the USSR and Poland objected to a sub-committee, since its work would be exclusively based on the United States draft resolution. The President (United Kingdom) stated that he "intended to propose that the sub-committee should consider not only the United States draft resolution, but also the outstanding Polish draft resolution". This proposal, he observed, could only be made after the adoption of the draft resolution to set up the sub-committee.<sup>237</sup>

The United States draft resolution was then adopted by 7 votes in favour and 4 abstentions.<sup>238</sup> The President's proposal "that the terms of reference of that sub-committee should be extended in this way: that it should examine both the United States and Polish draft resolutions on an equal footing, together with the amendments which have already been submitted to the United States proposal" was rejected by 5 votes in favour, 2 against and 4 abstentions.<sup>239</sup>

The President's proposal that the sub-committee be composed of the representatives of the United States — as a mover of the draft resolution — together with Australia, Belgium and China who had proposed the amendments was adopted by 7 votes in favour and 4 abstentions.<sup>240</sup>

At the 218th meeting on 1 November, the representative of Australia read a draft resolution submitted by the sub-committee and the President (United States) announced that the other proposals made by the members who constituted the sub-committee had been withdrawn.<sup>241</sup>

#### CASE 57

At the 324th meeting on 18 June 1948, in connexion with the respective functions of the Security Council and the Trusteeship Council with regard to the trusteeship system as applied to strategic areas, the President (Syria) called attention to the resolution of 16 December 1947 of the Trusteeship Council,

authorizing a committee of three, composed of the President and two other members of the Trusteeship Council, "to confer with the President or a similar committee of the Security Council with a view to assuring that, before the Security Council makes a final decision on the arrangements to be made with regard to the functions of the Trusteeship Council in respect of strategic areas under trusteeship in relation to the political, social, economic and educational advancement of the inhabitants, the responsibilities of the Trusteeship Council be fully taken into account."<sup>242</sup> The President proposed that the Council authorize a similar committee "to meet the committee proposed by the Trusteeship Council and confer on this matter and report to the Security Council the agreement, or decision, or understanding of both Councils". The Council "would be free to accept such proposals or not to accept them". The representative of the United States suggested that the proposed committee include the President, the representative of Belgium — representing the majority view in the report on this question submitted by the Committee of Experts — and a representative of the minority point of view. The President suggested the representative of the USSR or the representative of the Ukrainian SSR since both had supported the report of the minority.

The representative of the USSR objected that the resolution of the Trusteeship Council was contrary to the Charter, since the question of trusteeship of strategic areas was to be discussed with the Security Council "on a basis of parity", while under the Charter "the necessary functions in respect of strategic areas must be exercised only by the Security Council".<sup>243</sup>

The proposal of the President was adopted by 9 votes in favour, none against, with 2 abstentions.<sup>244</sup>

At the 327th meeting on 25 June, the President informed the Council that the committee, established by the Council on 18 June 1948 and composed of the President, the representatives of Belgium and the Ukrainian SSR, had held on 22 June a joint meeting with the similar committee of the Trusteeship Council, and that no agreement had yet been reached. The members representing the Trusteeship Council had requested that the Security Council postpone its final decision on the question until the Trusteeship Council had held further discussion on it. After a brief discussion on the matter, the President asked the Council "to give the Trusteeship Council a chance to submit their final proposal", and, as there were no objections, he adjourned the meeting.<sup>245</sup>

At the 415th meeting on 7 March 1949, in connexion with the "Procedure in application of Articles 87 and 88 of the Charter with regard to the Pacific Islands under the strategic trusteeship of the United States", the Council considered a "Report of the Committee appointed by the Security Council on 18 June 1948 to confer with the Committee of the Trusteeship Council on the question of respective functions of the two Councils in regard to trusteeship of strategic areas".<sup>246</sup> A statement by the representative of the Ukrainian

<sup>235</sup> For texts of relevant statements see:

177th meeting: President (Syria), pp. 1806, 1813, 1816; China, p. 1814; Colombia, pp. 1801, 1813; USSR, pp. 1814, 1815; United Kingdom, p. 1806.

<sup>236</sup> 180th meeting: p. 1903.

<sup>237</sup> For texts of relevant statements see:

217th meeting: President (United Kingdom), pp. 2710, 2713-2714; Poland, pp. 2712-2713; USSR, p. 2711; United States, p. 2710.

<sup>238</sup> 217th meeting: p. 2715.

<sup>239</sup> 217th meeting: p. 2716.

<sup>240</sup> 217th meeting: p. 2717.

<sup>241</sup> 218th meeting: pp. 2723-2724.

<sup>242</sup> 324th meeting: p. 8.

<sup>243</sup> For texts of relevant statements see:

324th meeting: President (Syria), pp. 8-9, 10; USSR, pp. 10-11; United States, p. 9.

<sup>244</sup> 324th meeting: p. 17.

<sup>245</sup> 327th meeting: pp. 9-10.

<sup>246</sup> S/916, O.R., 4th year, Suppl. for March 1949, pp. 1-3.

SSR at the second joint meeting of the two committees appeared in an addendum to the report.<sup>247</sup>

After the adoption of a draft resolution on the question of substance, as submitted by the majority of the Committee of Experts, the President (Cuba) called attention to the report of the joint committee and stated that, since there were no objections, he would consider the interpretation of the resolution should be that which had been submitted by the majority of the Committee of the Trusteeship Council. There was no formal vote on the report.<sup>248</sup>

#### CASE 58

At the 355th meeting on 19 August 1948, the Council approved its draft report to the General Assembly, subject to the unanimous agreement of a sub-committee composed of representatives of France, the Ukrainian Soviet Socialist Republic, the Union of Soviet Socialist Republics, the United Kingdom and the United States on the corrections presented by them in the course of the meeting of the Council.<sup>249</sup> The sub-committee met on 20 August and unanimously approved the corrections to the report.

#### CASE 59

At the 375th meeting on 29 October 1948, in connexion with the Palestine question, the representative of Canada proposed that a draft resolution, together with all draft amendments, be referred to a sub-committee, composed of the two members which had proposed the draft resolution—the United Kingdom and China— together with Belgium, France and the Ukrainian SSR. The functions of this sub-committee would be “to consider all amendments and revisions to the draft resolution”, and, in consultation with the Acting Mediator, to prepare a revised draft resolution. The representative of the Ukrainian SSR stated that he would abstain from voting, but was willing to serve on the sub-committee “if the President of the Security Council and the Council itself consider that all viewpoints should be represented on that sub-committee”.<sup>250</sup>

The draft resolution of the representative of Canada was adopted without objection.<sup>251</sup>

At the 376th meeting on 4 November, the representative of Belgium, Chairman of the sub-committee, made a statement on the report of the sub-committee,<sup>252</sup> which included an amended draft resolution “to which the majority of the members of the sub-committee have adhered under the conditions specified in the report”.<sup>253</sup> The conditions comprised reservations made by members of the sub-committee to various parts of the draft.

#### ii. Other subsidiary organs

#### CASE 60

At the 35th meeting on 18 April 1946, in connexion with the Spanish question, the representative of Australia proposed that the Security Council appoint “a

committee of five of its members”, instructed to examine the statements made before the Council with regard to the situation in Spain.<sup>254</sup>

At the 37th meeting on 25 April, the representative of Australia submitted a revised draft resolution.<sup>255</sup> At the 38th meeting on 26 April, the representative of Australia submitted a final revision of the draft resolution, which maintained the fact-finding character of the sub-committee and, at the 39th meeting on 29 April, the draft resolution, with amendments, was adopted by 10 votes in favour, none against, with 1 abstention.<sup>256</sup> On the proposal of the President (Egypt), the Council agreed that the sub-committee would be composed of the representatives of Australia (Chairman), Brazil, China, France and Poland.<sup>257</sup>

At the 44th meeting on 6 June, the Chairman submitted a report<sup>258</sup> accompanied by a supplementary memorandum.<sup>259</sup>

#### CASE 61

At the 111th meeting on 24 February 1947, in connexion with the Corfu Channel question, the representative of Australia proposed that a sub-committee of three members be appointed “to examine the material which has already been presented” and to report its findings to the Council.<sup>260</sup> At the 114th meeting on 27 February, the representative of the USSR objected to the setting up of a sub-committee, but stated that, should the majority of the Council be in favour, he would not vote against its establishment.<sup>261</sup>

The Australian draft resolution was adopted by 8 votes in favour, none against, with 3 abstentions.<sup>262</sup> As regards the composition of the sub-committee, the representative of Australia suggested that members of the Council “rather remote from the actual scene of the dispute” should serve on the sub-committee. The representative of the USSR remarked that the geographical approach was “too mechanical”. It would be “expedient” to exclude the permanent members of the Council. The President (Belgium) proposed Australia, Colombia and Poland as members of the sub-committee,<sup>263</sup> and this proposal was adopted by 7 votes in favour, none against, with 3 abstentions. The representative of the United Kingdom did not participate in the vote.<sup>264</sup>

At the 120th meeting on 20 March, the representative of Colombia (Chairman) submitted the sub-committee’s report.<sup>265</sup>

<sup>254</sup> 35th meeting: pp. 197-198.

<sup>255</sup> 37th meeting: p. 216.

<sup>256</sup> 39th meeting: p. 245. For full text, see chapter VIII, p. 306. Regarding ancillary procedural discussion, see Case 65 and Note to part II.

<sup>257</sup> 39th meeting: p. 245.

<sup>258</sup> S/75, O.R., 1st year, 1st series, Special Suppl. for June 1946, pp. 1-12.

<sup>259</sup> S/76, O.R., 1st year, 1st series, Special Suppl. for June 1946, pp. 13-82.

<sup>260</sup> 111th meeting: p. 363.

<sup>261</sup> For texts of relevant statements see:

114th meeting: Australia, p. 420; USSR, p. 428.

<sup>262</sup> 114th meeting: p. 432.

<sup>263</sup> For texts of relevant statements see:

114th meeting: President (Belgium), p. 437; Australia, pp. 433, 437; Syria, p. 436; USSR, pp. 433-434.

<sup>264</sup> 114th meeting: p. 438. For full text, see chapter VIII, p. 313. Regarding ancillary procedural discussion, see Case 66 and Note to part II.

<sup>265</sup> S/300, O.R., 2nd year, Suppl. No. 10, pp. 77-109; 120th meeting: pp. 544-549.

<sup>247</sup> S/916/Add.1, O.R., 4th year, Suppl. for March 1949, pp. 3-5.

<sup>248</sup> 415th meeting: p. 9.

<sup>249</sup> 355th meeting: p. 56.

<sup>250</sup> For texts of relevant statements see:

375th meeting: President (United States), p. 20; Canada, pp. 19-20; Ukrainian SSR, p. 21.

<sup>251</sup> 375th meeting: p. 22.

<sup>252</sup> S/1064, O.R., 3rd year, Suppl. for Nov. 1948, pp. 1-6.

<sup>253</sup> 376th meeting: p. 2.

## CASE 62

At the 155th meeting on 10 July 1947, in connexion with the appointment of a Governor for the Free Territory of Trieste, the Security Council decided "to set up a committee composed of the representatives of Australia, Colombia and Poland to collect additional information about the candidates already suggested, as well as other possible candidates, and to report to the Security Council".<sup>266</sup> At the 201st meeting on 10 September, the representative of Australia informed the Council that the report of the sub-committee had been completed, transmitted to the Council and circulated on 10 September 1947.<sup>267</sup> At the 203rd meeting on 24 September, the Security Council "examined the report of the Sub-Committee appointed . . . to collect additional information about the candidates proposed for the post of Governor of Trieste, as well as a candidate proposed by the representatives of China". The Council decided "to ask the permanent members of the Council to hold an informal consultation", and to have the next meeting of the Council on the subject in a few days.<sup>268</sup>

## CASE 63

At the 374th meeting on 28 October 1948, in connexion with the Palestine question, the Security Council considered a draft resolution,<sup>269</sup> jointly submitted by the representatives of China and the United Kingdom, which included a paragraph appointing a "committee of the Council, consisting of the five permanent members together with Belgium and Colombia, to examine urgently and report to the Council on the measures which it would be appropriate to take under Article 41 of the Charter", should either party or both refuse to comply with the Acting Mediator's orders regarding the truce.<sup>270</sup> At the 376th meeting on 4 November, the representative of the United States proposed that the Committee should give "such advice as the Acting Mediator may require", and that reference to Chapter VII should be substituted for reference to Article 41. The representative of France objected to reference being made to any Article or Chapter of the Charter, and favoured broader powers for the proposed Committee. The representative of the United Kingdom supported the United States amendment under which the Acting Mediator would remain the servant of the Security Council, while enjoying, should he require it, "the advantage of the advice" of the Committee of the Council.<sup>271</sup>

At the 377th meeting on 4 November, the President (Argentina) enquired whether it was advisable "that

<sup>266</sup> 155th meeting: p. 1277.

<sup>267</sup> 201st meeting: p. 2364.

<sup>268</sup> 203rd meeting: p. 2407.

<sup>269</sup> S/1059/Rev.2, *O.R.*, 3rd year, *Suppl. for Oct. 1948*, p. 72.

<sup>270</sup> 374th meeting: p. 33.

<sup>271</sup> For texts of relevant statements see:

376th meeting: France, pp. 8-9; United Kingdom, p. 24; United States, pp. 3-4.

the President should be excluded from a committee which, in the name of the Council, is going to try to intervene in mediation and give orders to the Acting Mediator".<sup>272</sup> There being no observations on this point the paragraph, as amended by the representative of the United States, was adopted by 8 votes in favour, 1 against, with 2 abstentions.<sup>273</sup> At the 396th meeting on 29 December, the following paragraphs were adopted by 8 votes in favour, none against, with 3 abstentions.<sup>274</sup>

"Instructs the Committee of the Council appointed on 4 November to meet at Lake Success on 7 January to consider the situation in Southern Palestine and to report to the Council on the extent to which the Governments concerned have by that date complied with the present resolution and with the resolutions of 4 and 16 November;

"Invites Cuba and Norway to replace as from 1 January the two retiring members of the Committee (Belgium and Colombia)".

On 7 January 1949, the Committee reported "that no further action by it was required at the moment"<sup>275</sup>

## 2. Subsidiary organs proposed but not established

## CASE 64

At the 281st meeting on 12 April 1948, in connexion with the Czechoslovak question, the representative of Chile<sup>276</sup> proposed the appointment of a sub-committee, with a membership to be determined by the Security Council, to receive and hear statements and testimony and to report to the Council at the earliest possible time, this action to be taken without prejudice to any decisions which might be taken in accordance with Article 34. The representative of the United States suggested that the sub-committee should consist of representatives of five members of the Council and that it should be authorized to hear the testimony of Czech political leaders.<sup>277</sup>

At the 288th meeting on 29 April, the representative of Argentina requested the Council to vote on the draft resolution submitted by the representative of Chile, and proposed that the sub-committee should be composed of three members.<sup>278</sup> At the 303rd meeting on 24 May, after a vote on the preliminary question of the majority required, the draft resolution was put to the vote and not adopted. There were 9 votes in favour and 2 against (one vote against being that of a permanent member).<sup>279</sup>

<sup>272</sup> 377th meeting: p. 42.

<sup>273</sup> 377th meeting: p. 42.

<sup>274</sup> 396th meeting: pp. 24-25.

<sup>275</sup> S/1191.

<sup>276</sup> 281st meeting: p. 2.

<sup>277</sup> 281st meeting: p. 33.

<sup>278</sup> 288th meeting: p. 15.

<sup>279</sup> 303rd meeting: p. 29. Regarding ancillary procedural discussion, see Case 67, and Note to part II.

## Part II

## CONSIDERATION OF PROCEDURES RELATIVE TO SUBSIDIARY ORGANS

## NOTE

In part II are entered the major instances of deliberation within the Council regarding problems of procedure involved in the establishment or utilisation of subsidiary

organs by the Council. The instances of incidental discussion on such problems have been entered in the case histories in part I. Only exceptionally has the Council had occasion to examine at length such problems of pro-



cedure, and on most of these occasions the problem of procedure has been interwoven with consideration of the agenda item itself. The material is for this reason limited in scope and inconclusive in nature. Three case histories<sup>1</sup> bear on the distinction between the pure act of establishing a subsidiary organ as a matter of procedure under Article 29 and the process of investigation through the agency of a subsidiary organ under Article 34. Connected material on the vote required and on Article 34 will be found in chapters IV and X of the *Repertoire*.<sup>2</sup> The material inserted in part II of this chapter consists of the observations directed more especially to the character and functions of the proposed subsidiary organ *qua* subsidiary organ. It has also been considered appropriate to include the instance of objection raised to the process of consultation between permanent members being assimilated to the concept of subsidiary organ.<sup>3</sup> The extent to which a subsidiary organ can itself delegate powers vested in it by the Council,<sup>4</sup> and the question of the modification of original terms of reference in the light of subsequent developments<sup>5</sup> are the subject of two other case histories.

Where at the time a subsidiary organ was established a definite time limit for the completion of its task was set by the Security Council,<sup>6</sup> or where the nature of the task set by the Council was such that the subsidiary organ was, on its completion, without question regarded as "*functus officio*,"<sup>7</sup> it has not been necessary for the Council to take under consideration questions regarding the termination of a subsidiary organ. Three subsidiary organs established by the Council adjourned *sine die* without being formally terminated by the Council.<sup>8</sup> In the one instance in which special problems of procedure arose regarding the termination of a subsidiary organ, information on the consideration of the problem by the Council has been given under a separate heading in part II.<sup>9</sup>

#### A. CONSIDERATION OF PROCEDURE IN THE ESTABLISHMENT OF SUBSIDIARY ORGANS

##### CASE 65

At the 35th meeting on 18 April 1946, in connexion with the Spanish question, the representative of Australia proposed that the Security Council, in accordance with Article 34 of the Charter, make inquiries, through the instrumentality of a committee of five members, to determine whether the situation in Spain endangered international peace.<sup>10</sup> At the 37th meeting on 25 April, he submitted a revised text to "cut out the idea of a formal investigation under Article 34 of the Charter so as to enable the proposed body to be brought in under Article 29 as a subsidiary organ . . ." Discussion proceeded on the legitimate scope of the work of the sub-committee

as a subsidiary organ. The representative of Australia observed that some representatives considered "that the sub-committee should not and could not itself make a finding . . . or make recommendations . . . but should present the facts so that the Council itself could decide and make its own decision on the facts as ascertained and presented by the sub-committee".<sup>11</sup> The representative of the United States felt that the sub-committee in its report to the Council "should provide us with the facts ascertained by it, so that the Security Council itself may make its own determination, based upon those facts". The representative of France considered that the questions addressed to the sub-committee were too restrictive. He suggested that they be deleted and replaced by a direction to report "on the results of such studies and on the practical measures which the United Nations could take in this matter". He observed that he regarded the proposed body "not as a committee or commission but as a working sub-committee". The representative of Australia observed that "for a sub-committee to recommend practical measures" would mean, in effect, that the committee would make decisions instead of the Council. The representative of the United Kingdom, agreeing with the Australian proposal, stated that "the work of sifting evidence" could not be "conveniently or effectively" accomplished by the Council, and that it was, therefore, "a sensible and practical thing" to establish the proposed sub-committee. He opposed the French amendment on the grounds that it was "inadmissible" to instruct the sub-committee "to examine and sift evidence" and, at the same time, to ask it "what action to take against the accused party". This, he said, would be equivalent to "presuming guilt".<sup>12</sup> A drafting committee was appointed to reach agreement on the text of the proposal,<sup>13</sup> and the text recommended by the drafting committee was adopted by the Council at the 39th meeting on 29 April 1946. By the resolution adopted at the 39th meeting, the Council instructed the sub-committee of five members appointed by it "to examine the statements made before the Security Council concerning Spain, to receive further statements and documents, and to conduct inquiries as it may deem necessary, and to report to the Security Council before the end of May".<sup>14</sup>

At the 44th meeting on 6 June, the representative of Australia, Chairman of the sub-committee, stated:<sup>15</sup>

"In discharging its responsibility, the Sub-Committee has made enquiries. It has analysed the information obtained from those enquiries; it has attempted to describe with accuracy the nature of the present situation in Spain, and to indicate the practical measures which, in the light of that analysis and description, appear to be open to the Security Council . . . The Sub-Committee in examining the facts of the situation was concerned in assisting the Security Council to obtain a clearer picture of the situation in order that it might decide on action."

<sup>1</sup> Cases 65, 66 and 67. Case 65 is procedural discussion ancillary to Case 60, Case 66 ancillary to Case 61, and Case 67 ancillary to Case 64.

<sup>2</sup> See chapter IV, Cases 42, 49, 85, 98 and 118, and chapter X, Cases 8, 11, 16, 17 and 19.

<sup>3</sup> Case 68.

<sup>4</sup> Case 69.

<sup>5</sup> Case 70. For further details of the extent to which certain subsidiary organs have been given additional functions, see chapter VIII.

<sup>6</sup> See Cases 51, 52, 53, 55, 56, 60 and 61.

<sup>7</sup> See Cases 54, 57, 58, 59, 62 and 63.

<sup>8</sup> See Cases 4, 9, and 20.

<sup>9</sup> See Case 71.

<sup>10</sup> For text, see chapter X, Case 8, 35th meeting: pp. 197-198.

<sup>11</sup> 37th meeting: pp. 216-217.

<sup>12</sup> For texts of relevant statements see:

37th meeting: Australia, pp. 216-217, 229-230; Brazil, p. 225; Mexico, p. 233; France, pp. 226-227, 234-235, 236; Netherlands, pp. 224-225, 230-231, 236, 237; Poland, pp. 227-229, 230, 231, 233, 235; USSR, pp. 219-223; 234, 236; United Kingdom, pp. 231-232, 235; United States, pp. 217-219.

<sup>13</sup> See Case 52.

<sup>14</sup> 39th meeting: pp. 244-245. For full text see chapter VIII, p. 30. For the application of Article 27, see chapter IV, Case 180.

<sup>15</sup> 44th meeting: pp. 313, 315.

At the 45th meeting on 13 June 1946, the representative of Egypt, commenting on the report of the sub-committee, stated that "when the Sub-Committee made its recommendations to the Council, it went beyond its terms of reference".<sup>16</sup>

## CASE 66

At the 111th meeting on 24 February 1947, in connexion with the Corfu Channel question, the representative of Australia proposed to appoint a sub-committee of three members "to examine the material which has already been presented to us, and report . . . on the case as it appears to its members after a close examination of the material before them and after further discussion with the parties concerned".<sup>17</sup> He explained that the proposed sub-committee was "a means of enabling the Security Council to carry out its obligation to bring about the peaceful settlement of this dispute". The sub-committee, "regarded as a preliminary step", should work on the evidence so far available "namely, the documents which have been brought to this Council and the statements which have been made before this Council", which should be supplemented by reference to the two parties concerned "but not by undertaking an investigation beyond those limits". Such a sub-committee "could also give some indication to the Council of the possible courses of action" open to the Council and, in particular, "which of those courses of action would seem to be most applicable to the facts of the dispute".<sup>18</sup>

The representative of the United States recalled the precedent established in connexion with the Spanish question. He observed that the proposed sub-committee could give the Council "the benefit of its analysis of the facts" and "of its recommendation as to a suitable course of action". The representative of Poland did not believe that the proposed sub-committee could find in New York "any convincing evidence". The representative of the USSR objected to the draft resolution on the ground that it was "incompatible with the need for keeping the Security Council's authority at a high level". The representative of Syria stated that he would not vote for the establishment of the sub-committee since there were no questions or points "which could not be solved, understood and appreciated in a plenary meeting of the Security Council". The representative of the United States stressed that the sub-committee "might provide a convenient mechanism for bringing together the contradictions in the statements" made by the parties at the Council table. The Council would thus have "a basis for formulating a final decision to dispose" of the question before it.<sup>19</sup>

At the 114th meeting on 27 February 1947, the representative of the United Kingdom considered that, as the establishment of such a subsidiary organ was a procedural matter, he was not required to abstain from voting by Article 27 (3). The President (Belgium) ruled that:<sup>20</sup>

"Article 27. . . does not debar members of the Security Council who are parties to a dispute from voting, except with regard to decisions to be taken by the Council 'under Chapter VI'. But Chapter VI does not

mention decisions of the kind which we have now to take. We have to establish a purely advisory sub-committee, whose only task will be to assist the Council in the submission of facts; this body will take no decisions; it will confine itself to formulating conclusions intended to help the Council in taking a decision. The sole function of the future sub-committee will be to facilitate the Council's work by classifying information submitted to the Council; there is no question in this case of undertaking an investigation."

The representative of the USSR disagreed with the ruling of the President, and stated:<sup>21</sup>

"Decisions cease to be decisions of a procedural nature from the moment the Council begins to take a decision regarding investigation . . . Is not the establishment of a sub-committee to investigate facts a decision about an investigation? The representative of Australia in fact stated that the task of this sub-committee would consist in investigating facts relating to this question. This is therefore a decision about an investigation, regarding the supplementary investigation and elucidation of the facts. If this is so, then . . . this decision obviously cannot be a matter of procedure."

The representative of the United States, after expressing agreement with the President's statement, added:<sup>22</sup>

"It is unthinkable that the Security Council should not be able to establish a sub-committee, as the Council's own servant, to examine matters referred to it by the Council and to make recommendations and clarifications for the furtherance of the Council's own work. The Council's decision would be taken on the report of the sub-committee, which would have no power other than that of making recommendations."

" . . .  
"To adopt the view which has been expressed by the representative of the Soviet Union would mean that the Council could never, without the consent of every one of the five permanent members, set up any agency for the conduct of its business. I think that is, in fact, contrary to Article 29 of the Charter . . ."

The representative of the USSR having stated that he would not oppose the setting up of a sub-committee, should "the majority of the members of the Council consider it essential to take a decision regarding supplementary investigation of the facts",<sup>23</sup> the Australian draft resolution was adopted by 8 votes in favour, with 3 abstentions.<sup>24</sup>

## CASE 67

At the 281st meeting on 12 April 1948, in connexion with the Czechoslovak question, the representative of Chile proposed "without prejudice of any decisions which may be taken in accordance with Article 34 of the Charter", to appoint a sub-committee to receive or to hear "evidence, statements and testimonies and to report to the Security Council at the earliest possible time".<sup>25</sup> At the 288th meeting on 29 April 1948, the

<sup>16</sup> 45th meeting: p. 330.

<sup>17</sup> 111th meeting: p. 363.

<sup>18</sup> 111th meeting: p. 365.

<sup>19</sup> For texts of relevant statements see:

111th meeting: Poland, p. 377; Syria, pp. 379-380; USSR, p. 377; United Kingdom, p. 383; United States, pp. 373, 383.

<sup>20</sup> 114th meeting: p. 426.

<sup>21</sup> 114th meeting: pp. 426, 427.

<sup>22</sup> 114th meeting: pp. 427, 431.

<sup>23</sup> 114th meeting: p. 428.

<sup>24</sup> 114th meeting: p. 432. For full text, see: chapter VIII, p. 313.

<sup>25</sup> 281st meeting: p. 2.

representative of Argentina proposed that the sub-committee should "consist of three members, to collect relevant information on this case". The Council considered whether the establishment of such a sub-committee would constitute a procedural decision. The representative of the United States stated that it was

"... clearly a procedural decision. It is a decision under Article 29 of the Charter, not under Chapter VI. The Charter contains a clear indication that this type of matter is procedural. Article 29 is one of the five articles in the portion of Chapter V of the Charter entitled 'Procedure'. Consequently, under the language of the Charter, a Security Council decision pursuant to Article 29 must be considered as procedural..."

"The adoption of this draft resolution would mean no more than a continuance by the Security Council of its consideration of the Czechoslovak question with the assistance of a sub-committee composed of its own members. The use of such a subsidiary organ to assist the Security Council in the performance of its functions is expressly provided for in Article 29 of the Charter."

The representative of Canada considered that the draft resolution represented "a convenient way of carrying on the further enquiries of the Security Council" and, as such, was "clearly a procedural matter under Article 29".

The representative of Argentina observed:

"... just as the Security Council set up the Committee of Experts, so it can appoint three of its members to collect information on the Czechoslovak case which has been brought before the Council before we begin to discuss the case itself, to give it due consideration or to adopt a resolution regarding it."<sup>26</sup>

The representative of the USSR stated:

"I consider that this resolution, if adopted, would necessitate investigations... I am not interested in how the resolution will be styled or how the committee will be named by those who desire to establish it and to carry out investigations, but I am concerned with the substance of the question of the proposed committee and the activities which it will have to undertake in virtue of the resolution if it is adopted."

At the 303rd meeting on 24 May 1948, the representative of Syria drew attention to rule 28, and affirmed that "conduct of business... cannot mean anything but questions of procedural methods".<sup>27</sup>

The Chilean draft resolution was put to the vote and was not adopted. There were 9 votes in favour and 2 against (one vote against being that of a permanent member).<sup>28</sup>

The representative of Argentina proposed to request the Committee of Experts to obtain "further testimonial evidence, both oral and written", regarding the situation in Czechoslovakia, and report back to the Council.<sup>29</sup> At the 305th meeting on 26 May 1948, he stated:<sup>30</sup>

"As we have been unable to entrust this task of collecting information to a body specially created for

the purpose, I hope we can entrust it to an already existing body which, as representatives have just heard, deals exclusively with procedural matters."

The representative of the USSR considered that the difference between the Chilean and Argentine proposals concerned only the composition of the subsidiary body, but that the purpose of both was the carrying out of an investigation.<sup>31</sup>

## B. CONSIDERATION OF THE PROCEDURE OF CONSULTATION BETWEEN PERMANENT MEMBERS

### CASE 68

At the 262nd meeting on 5 March 1948, in connexion with the Palestine question, the representative of the United States stated that, in view of the objections of the representative of the USSR to the paragraph of the United States draft resolution for the establishment of a committee of the Security Council formed by the permanent members of the Council, the paragraph should be amended to read: "To invite the five permanent members of the Security Council to consult..."<sup>32</sup>

The representative of the USSR stated that he would agree to the withdrawal of the proposal for setting up a committee and to the proposal that instead "the permanent members should carry out direct consultations among themselves".<sup>33</sup>

At the 263rd meeting on 5 March, the representative of the United States proposed

"to call on the permanent members of the Council to consult and to inform the Security Council regarding the situation with respect to Palestine..."<sup>34</sup>

The representative of the USSR stated that, while agreeing with the proposal that "there should be direct consultations among the permanent members of the Security Council", he did not agree with other provisions included in the revised text of the United States draft resolution.<sup>35</sup>

The draft resolution was adopted by 8 votes in favour, and 3 abstentions.<sup>36</sup>

At the 270th meeting on 19 March, the representative of the United States made a brief report on the consultations between the permanent members of the Council.

The representative of the USSR observed that the representative of the United States had spoken in his own name and not in the capacity of rapporteur, and proceeded to state his own view of the consultations between the permanent members on the Palestine question.<sup>37</sup>

## C. CONSIDERATION OF THE PROCEDURE OF DELEGATION OF FUNCTIONS

### CASE 69

At the 131st meeting on 18 April 1947, in connexion with the Greek frontier incidents question, the Security Council decided that<sup>38</sup>

<sup>31</sup> 305th meeting: p. 36.

<sup>32</sup> 262nd meeting: p. 31.

<sup>33</sup> 262nd meeting: p. 31.

<sup>34</sup> 263rd meeting: p. 43.

<sup>35</sup> 263rd meeting: pp. 36-37.

<sup>36</sup> 263rd meeting: p. 44. For text, see chapter VIII, p. 326.

<sup>37</sup> For texts of relevant statements see:

270th meeting: USSR, pp. 143-148; United States, pp. 141-143.

<sup>38</sup> 131st meeting: pp. 799-800. On the application of Article 34, see chapter X, Case 12.

<sup>26</sup> For texts of relevant statements see:

288th meeting: Argentina, pp. 15, 27; Canada, p. 21; USSR, p. 23; United States, pp. 10-20.

<sup>27</sup> 303rd meeting: p. 4.

<sup>28</sup> 303rd meeting: pp. 28-29.

<sup>29</sup> S/782, O.R., 3rd year, Suppl. for May 1948, p. 99.

<sup>30</sup> 305th meeting: p. 35.

"... the Commission established by the resolution of the Council of 19 December 1946 shall maintain in the area concerned a subsidiary group composed of a representative of each of the members of the Commission, to continue to fulfil such functions as the Commission may prescribe in accordance with the terms of reference..."

In setting up the subsidiary group, the Commission stated that its terms of reference would

"... be those set out in the resolution of the Security Council of 19 December 1946 with the following qualifications:

"1. It shall only investigate such incidents as may be brought to its attention which have occurred since 22 May 1947;

"2. It shall not hear evidence which was or could have been available to the main Commission;

"3. No incident shall be investigated nor evidence heard except by formal decision of the Group."<sup>39</sup>

At the 133rd meeting on 12 May, the representative of the USSR stated that this decision of the Commission was "not compatible with the Security Council resolution of 18 April 1947", since it was evident from the records "that the Commission decided to delegate to the Subsidiary Group, automatically and fully, the functions assigned to it as a Commission".

He added:

"Thus, despite the fact that the group left in Greece was not the Commission charged with further work, but only a subsidiary group, in actual fact, if this decision of the Commission were implemented, the group left in Greece would not be a subsidiary group, but really the Commission, with all the functions and powers which are characteristic of a commission... It is impossible to approve of such a situation. The Soviet representative on the Commission has already drawn the attention of the members of the Commission to this fact, and has pointed out that it is impossible to delegate automatically to the Subsidiary Group, functions assigned to the Commission. In the contrary case, the establishment of the Subsidiary Group would lose its meaning, since the Subsidiary Group would, in fact, be another commission."

He also stated that the mandate given to the Subsidiary Group extended to future incidents, whereas the Council had only authorized the Commission of Investigation to enquire into those incidents to which the Greek Government had drawn the attention of the Council. He raised objection with regard to the procedure of the Commission in adopting its "decision regarding the powers and functions of the Subsidiary Group without the participation of the representatives of Yugoslavia, Bulgaria and Albania".<sup>40</sup>

The representative of the USSR introduced a draft resolution<sup>41</sup> providing that the Subsidiary Group would "carry out the investigation of facts only on the instructions of the Commission in each separate case", and that "the Commission should bring its decision on the terms of reference of the Subsidiary Group in conformity with this decision of the Security Council".

At the 134th meeting on 16 May, the representative of Belgium stated:<sup>42</sup>

"... In giving the Subsidiary Group functions similar to its own, although less extensive, the Commission respected the character of the Subsidiary Group which, as its name implies, should be a kind of deputizing organ. In principle, the Subsidiary Group has the same powers of initiative as the Commission itself; the exercise of its functions does not require prior authorization. It derives its powers from the Security Council which may define, modify or terminate them either directly or through the intermediary of the Commission. Its relationship to the Commission is not that of a sub-agent."

At the 135th meeting on 20 May, the representative of Australia observed that:

"... it is not correct, as has been stated... that the Commission delegated 'powers which it had received... without any change or modification'. There were modifications, and they are set out in the terms of reference of the Subsidiary Group."

He further remarked that "the Commission was perfectly free to adopt any rules of procedure it desired", and that, having received the Council resolution of 18 April as a mandate, "there was no question of inviting these liaison officers to discuss the terms of a mandate". In his opinion, "the Commission correctly interpreted the intentions and the spirit of the Council". He also recalled "that the Subsidiary Group derives its authority from the Security Council, through the Commission. It is the servant and the instrument of the Council".

The representative of Brazil stated:

"With regard to the delegation of powers contained in the resolution of the Security Council of 18 April, I do not find any juridical ground for invalidating it. The resolution of 18 April has the same value as a substitution of powers; the mandator, when conferring power on the mandatory, expressly authorizes it to extend those powers to another agent. That was the nature of the resolution of the Security Council... The only limit imposed upon the Commission in the exercise of that right lay in that its own powers may not, in any circumstances, be exceeded, under the self-evident theory that the mandatory cannot use powers which it does not possess. Such, however, is not the case of the Subsidiary Group whose powers, as defined by the Commission, do not exceed the powers of the Commission itself."<sup>43</sup>

At the 136th meeting on 22 May, the representative of the United Kingdom supported the view that the Commission of Investigation and the Subsidiary Group might have "exactly the same powers" in order to watch the situation in Northern Greece. He further stated:<sup>44</sup>

"... In point of fact, if we study the Subsidiary Group's terms of reference, we will see that the Commission has actually limited its powers. The Commission, in our view, acted properly under a Council decision. We have heard no really tangible suggestion as to any impropriety under this head, except the recurrence in Mr. Gromyko's statement of the word 'automatic'. I do not know what is thought to be so

<sup>39</sup> S/337, O.R., 2nd year, Suppl. No. 11, annex 26, p. 122.

<sup>40</sup> 133rd meeting: pp. 827-829.

<sup>41</sup> 133rd meeting: p. 832.

<sup>42</sup> 134th meeting: pp. 844-845.

<sup>43</sup> For texts of relevant statements see:

135th meeting: Australia, pp. 876-879; Brazil, pp. 880-881.

<sup>44</sup> 136th meeting: p. 896.

sinister about this word. If it means strict compliance with the Council's decision, I cannot see that it has any pejorative sense."

At the 137th meeting on 22 May, the representative of Syria expressed the view that, since it had not been instructed to that effect by the Security Council, the Commission of Investigation should not have established "new terms of reference or a new form of mandate for the Subsidiary Group". The composition of both investigating bodies being identical, the Subsidiary Group should have been given "all the authority which it should have had to continue its examination and investigation under the same mandate which was assigned to the Commission..."<sup>45</sup>

The USSR draft resolution was put to the vote at the 137th meeting on 22 May, and was rejected, having failed to obtain the affirmative votes of 7 members. There were 2 votes in favour, 6 against and 3 abstentions.<sup>46</sup>

#### D. CONSIDERATION OF THE PROCEDURE OF MODIFICATION OF TERMS OF REFERENCE

##### CASE 70

At the 394th meeting on 28 December 1948, in connexion with the Palestine question, the representative of the United Kingdom submitted a draft resolution concerning the maintenance of the truce and, more especially, a cease-fire in Southern Palestine. This draft resolution included a provision that the Security Council:<sup>47</sup>

"Instructs the Committee of the Council appointed on 4 November<sup>48</sup>... to consider the situation in Southern Palestine and to report to the Council on the extent to which the Governments concerned have... complied with the present resolution".

At the 396th meeting on 29 December 1948, the representative of the USSR stated:

"It should be added that the Committee was created exclusively as an advisory organ, for the sole purpose of being consulted by the Mediator in the event of the Mediator feeling the need of such consultation... Consideration of the situation in Southern Palestine, like the consideration of the Palestine question as a whole, is the function and prerogative of the Security Council. The proposal, therefore, that the Committee should resume its work and that new members should be added to it, not only has no legal basis but is devoid of any practical sense."

The representative of France proposed to call upon the Governments concerned to implement also the Security Council resolution of 16 November 1948, regarding immediate establishment of an armistice, and to ask the Committee "to report... on the way in which... the injunctions to implement the two resolutions—had been put into practice".

He considered that, as the Security Council "was entitled to define the original functions, it is obviously also entitled to alter them".

In opposing the French amendment, the representative of the USSR stated:

"... Mr. Parodi said that the Security Council could assign any functions to the Committee of the Security Council on Palestine. This is, of course, true, but it is altering the constitution of the Committee itself" [*which would*] "no longer be an advisory committee, but a committee with entirely new functions. Hence a new constitution and new rules will have to be drawn up for it... In view of the fact that the Security Council itself will have to deal with the Palestine problem, is there any point in setting up a special committee on this problem, when we already have a Conciliation Commission?"

The representative of France replied:

"I do not think that my position is incompatible with that of the USSR representative. The text we are considering concerns the period before the Commission established by the General Assembly begins to function. We are still in a period during which we admit that the Mediator retains his powers, and during which, consequently, the Committee we had established to advise him still exists. In these circumstances, it seems to me that we can quite well instruct the Committee to bear in mind the implementation of the 16 November resolution as well as that of the 4 November resolution."<sup>49</sup>

#### E. CONSIDERATION OF THE PROCEDURE OF TERMINATION

##### CASE 71

At the 133rd meeting on 12 May 1947, in connexion with the Greek frontier incidents question, the draft resolution submitted by the representative of the USSR included the provision that "the Subsidiary Group will cease its activity with the liquidation of the Commission itself".<sup>50</sup>

At the 135th meeting on 20 May, the representative of the United States in this connexion stated:

"... the United States delegation never had any idea other than that the Subsidiary Group would cease its activity with the liquidation of the Commission itself... Nowhere is it precisely stated when the Commission will cease to exist, but common sense would seem to suggest that the Council may declare that the Commission is no longer in existence, once it has received its report and taken a final decision. At that time, unless the Council has in the meanwhile taken other action of an affirmative nature, the Subsidiary Group will automatically cease to exist."

At the 136th meeting on 22 May, the representative of the United Kingdom stated:

"... A subsidiary group dies with the parent organization but, in our view, death does not occur until the Council liquidates the parent... If we say that the Subsidiary Group dies with the Commission of Investigation, that cannot, of course, limit in any way the right of the Council to continue its existence or to substitute something similar in its place, if it should wish to do so."

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

396th meeting: France, pp. 11-12, 22; USSR, pp. 7, 21-22; United Kingdom, p. 18. For the decision of the Council see Case 63.

<sup>50</sup> 133rd meeting: p. 832. For draft resolution referred to in this case, see chapter X, Case 12. For establishment of the Subsidiary Group, see Case 2.

<sup>46</sup> 137th meeting: p. 911.

<sup>47</sup> 137th meeting: pp. 924-925.

<sup>48</sup> 394th meeting: p. 14.

<sup>49</sup> See Case 63.

The representative of France stated:

"In regard to the duration of the Subsidiary Group, it is quite evident that it cannot exceed that of the Commission, since the Group was created by the Commission in conformity with the provisions of its terms of reference. The powers of the Subsidiary Group will therefore expire at the same time as those of the Commission... After the dissolution of the Commission, the Council may establish any other supervisory group it may think necessary."

The representative of Poland stated:

"... It is quite understandable that the Subsidiary Group cannot live longer than the Commission from which it draws its power and mandate. Practically all the representatives have agreed on that..."<sup>51</sup>

At the 188th meeting on 19 August, after the Council had rejected the United States draft resolution based on the report of the Commission of Investigation, the President (Syria) referred to the resolution of the Council authorising the Subsidiary Group to fulfil certain functions "pending a new decision of the Security Council", and stated:

"... Unfortunately, the Security Council has failed up to this point to take any decision in that respect. I therefore have no alternative but to conclude that the Subsidiary Group will continue to exist and to exercise the same duties and functions which were assigned to it by the previous resolution."

The representatives of Poland and the USSR opposed this interpretation, and the latter stated that the tasks of the Commission and the Subsidiary Group having been exhausted, they must be considered dissolved and non-existent.

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

135th meeting: United States, p. 873.

136th meeting: France, p. 905; Poland, p. 909; United Kingdom, p. 898.

The representative of the United Kingdom, objecting to the statement by the representative of the USSR, stated that both subsidiary organs "can be terminated only by an affirmative decision of the Council".

The representative of the United States stated:

"I entirely support the President's ruling that the Group and the Commission should remain in existence until the Council takes affirmative action."

At the 202nd meeting on 15 September 1947, the representative of the United States in submitting a draft resolution, under Article 12 of the Charter, to request the General Assembly to consider the dispute and to make recommendations, stated that such a procedure would avoid the necessity of terminating the Commission of Investigation or its Subsidiary Group on the spot. The draft resolution was rejected by 9 votes in favour and 2 against, one vote against being that of a permanent member.<sup>52</sup>

The representative of the United States thereupon introduced another draft resolution to remove the question from the list of matters of which the Security Council was seized. There could be no doubt, he observed, that in taking such a decision the Council would be destroying the Commission and its Subsidiary Group.<sup>53</sup>

At the same meeting, the United States draft resolution was adopted.<sup>54</sup>

The Greek question was accordingly removed from the list of matters and the Commission of Investigation terminated.

<sup>52</sup> 202nd meeting: pp. 2399-2400.

<sup>53</sup> For texts of relevant statements see: 188th meeting: President (Syria), p. 2100; Poland, pp. 2100-2101; USSR, pp. 2099, 2100; United Kingdom, p. 2099; United States, p. 2101.

<sup>54</sup> 202nd meeting: United States, pp. 2369, 2401-2402.

<sup>55</sup> 202nd meeting: p. 2405.