

Chapter VIII

CONSIDERATION OF QUESTIONS UNDER THE COUNCIL'S RESPONSIBILITY FOR THE MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY

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INTRODUCTORY NOTE

In chapters I-VI specific aspects of the procedure of the Security Council in the discharge of its functions under Chapters VI and VII of the Charter have been dealt with as general problems in the procedure of the Council. Aspects of practice which arise in the consideration of the substance of questions placed before the Council do not admit of presentation under generalized headings, since the proceedings in each case have necessarily been adapted, within the broad framework of the Charter, to the special circumstances of the case.

Accordingly this chapter indicates the chain of proceedings on the substance of each question included within the Report of the Security Council to the General Assembly under the heading: "Questions Considered by the Security Council under its Responsibility for the Maintenance of International Peace and Security". The range of questions covers broadly those which may be deemed to fall under Chapters VI and VII of the Charter. In chapters X, XI, XII of the *Repertoire* is presented ancillary material from the Official Records bearing on relevant Articles of the Charter. References to the ancillary material are given at the appropriate points in the entries for each question in this chapter.

I. THE ARRANGEMENT OF CHAPTER VIII

The questions are dealt with in the chronological order of their inclusion in the agenda of the Council. In respect of each question, there is given at the outset a summary of the case presented to the Council as stated in the letter of submission and the initial statement to the Council, together with a summary of the contentions made in rebuttal. The effort has been made to state these issues in the light of their legal and constitutional bearing on the Charter rather than in terms of the political contentions stated before the Council. An indication is also given of the Articles cited in the submission of the question to the Council.¹

The framework of the material for each question is provided by the succession of affirmative and negative decisions within the purview of this chapter. Decisions related to the subject matter of chapters I-VI of the *Repertoire* are, with certain exceptions, omitted as not relevant to the purpose of this chapter or of the ancillary chapters X-XII. The decisions are entered in uniform manner. Affirmative decisions are entered under a heading indicative of the content of the decision, and negative decisions are entered under a heading indicative solely of the origin of the proposal or draft resolution. Affirmative decisions have been reproduced in full as constitutive of the practice of the Council, while negative decisions are indicated in summarized form. Where the negative decision relates to a draft resolution in connexion with which discussion has taken place concerning the application of the Charter, the text of the relevant parts of the draft resolution will in most instances be found in chapters X-XII.

¹ For a tabulation of the data on submission, see chapter X, part III.

The decisions on each question are linked by a brief indication of the proceedings of the Council designed to draw attention to the immediate background of each decision. Where a decision has been preceded by consideration of amendments, these amendments are, for the most part, entered in connexion with the decision; but certain minor textual amendments and certain proposals not voted upon by the Council have been omitted where these are of no import in connexion with the ancillary material relating to the Articles of the Charter which is entered in chapters X-XII.

Chapter VIII, as an outline of the proceedings of the Council in respect of the issues placed before it, constitutes the framework within which the ancillary legal and constitutional discussion recorded in chapters X-XII may be considered. The chapter is an aid to the examination of the deliberations of the Council expressly related to the provisions of the Charter within the context of the chain of proceedings on the agenda item.

For this reason, certain material, notably relating to Articles 1 and 2 of the Charter, will be found entered in this chapter where its significance in relation to the proceedings of the Council can be the more readily appreciated.²

The decisions of the Council entered in respect of each question constitute the pronouncements deriving, directly or indirectly, from the issues submitted in the first instance. The issues before the Council in connexion with a particular question have not infrequently undergone a process of development and transformation in the course of its consideration, with or without change with respect to the Article of the Charter on the basis of which the Council's consideration of the question has been proceeding; and where such development has occurred, the relevant information has been entered. In this manner, the chapter, in conjunction with chapters X-XII, presents the evidence regarding the Articles of the Charter on which the proceedings of the Council have been based in the successive stages in the consideration of the agenda items dealt with in this chapter.

Consideration of the practice of the Council in the discharge of its responsibilities for the maintenance of international peace and security must be based in the first instance on the examination of the issues placed before and considered by the Council and on the texts of the decisions relating thereto. The Council itself has defined in few instances only the relation of these decisions to the individual Articles of the Charter. For this reason, few decisions can be ascribed to specific Articles of the Charter without a certain element of interpretation. In the absence of conclusive evidence in the Records, the attribution of decisions to the Articles of the Charter is a task of interpretation beyond the scope of the *Repertoire*. Indeed, statements in the Council and the texts of decisions are in many instances indicative of the view that the Council has sought to discharge its responsibility for the maintenance of international peace and security by basing its actions on the general

² See also chapter XII, Note to part II.

powers conferred upon it by the Charter. In locating the decisions of the Council within the context of the Council's proceedings on the individual questions before it, the intention has been to make available the texts of decisions in a manner which facilitates the assessment of their constitutional significance.

II. ARRANGEMENT OF CHAPTERS X-XII

In the chapters X, XI and XII of the *Repertoire* is presented material from the Official Records of the Council bearing on the Articles of the Charter defining the powers and the functions of the Council which are not covered in earlier chapters. The following paragraphs state the criteria of relevance which have governed the assembly of this material.

All proceedings of the Council in the consideration of disputes and situations may be deemed to constitute material for a review of the application of the relevant Articles of the Charter. The statements and counter-statements by parties to a dispute, together with the observations by representatives on the Council regarding the validity or invalidity of such claims, constitute evidence of the range of considerations which the Council has deemed appropriate to entertain in the discharge of its functions. The constitutional significance of these proceedings can, however, be appraised only in the light of the full record.

Nor is it possible within the limitations of the *Repertoire of Practice* to engage in analysis of the varied measures which the Council has taken in connexion with the questions submitted to it. The adoption or non-adoption of such measures is dependent upon the circumstances of the time, and their efficacy and appropriateness can be appraised only in relation to those circumstances and to developments in the area concerned. In order, however, to afford an empirical guide to the varied measures taken by the Council, there has been included in this chapter an analytical table of measures adopted by the Council arranged broadly according to the type of measure. This table should, however, be regarded as of the nature of an index to chapter VIII; and no constitutional significance should be attached to the headings adopted in the compilation of this table nor to the inclusion of particular measures under the individual headings.

Much of the activity of the Council in connexion with chapters VI and VII of the Charter has taken place through the instrumentality of commissions established to operate in the area of the dispute. These commissions have established their own methods of organization and procedure in accordance with the functions assigned to them. No attempt has been made to reproduce, within the *Repertoire of Practice*, material relating to the organization and procedures of such commissions save where questions of organization and procedure relating to the commissions have constituted an aspect of the proceedings of the Council itself. Information regarding the organization and procedure of the United Nations Commissions in question will, however, be found in the series of memoranda prepared by the Secretary-Gen-

eral entitled: *Organization and Procedure of United Nations Commissions*.³ References to these publications are given at the appropriate points in chapter VIII of the *Repertoire*.

The material included in chapters X, XI and XII consists of those episodes in the proceedings where the Council has found it necessary to address itself to the relationship of the question before the Council to the terms of the Articles of the Charter. In principle, the material included consists of those instances in which a draft resolution submitted to the Council has raised a problem concerning the application of the Charter, resulting in a connected chain of discussion on the problem of interpretation. The material is arranged under Articles of the Charter, not by reference to the constitutional significance of the eventual decision, but by reference to the problem of interpretation raised by the draft resolution put to the Council. It follows that case histories under each Article of the Charter will include certain incidental material bearing on other Articles of the Charter, wherever, in the consideration of the draft resolution related to one Article, the bearing of other Articles has been adverted to. This method of presenting the material has been adopted as appropriate to the *Repertoire of Practice* since the significance of particular statements on the application of the Charter can be assessed only in the light of their context.

Though the principle has been adopted that the case histories should commence with draft resolutions expressly related to the Charter, it has not been possible to apply this principle with consistency throughout, either as a method of selection or of arrangement. In certain instances discussion on the bearing of the text of the Charter evoked by a proposal has continued over several meetings of the Council and has ranged over several Articles of the Charter. To maintain the integrity of the chain of proceedings in such instances would afford little assistance in the examination of the material bearing on the individual Articles; and, consequently, in such instances, the effort has been made to present a master history under the Article of the Charter predominantly involved and to include the material bearing on other Articles of the Charter rather in the form of a series of statements. In other instances, protracted debate has taken place on the relationship between the agenda item under consideration by the Council and the text of the Charter. In such instances also the material will be found to consist of a series of related statements, and not of the consideration of a draft resolution, and the reader should refer to chapter VIII in order to assess the significance of this discussion within the context of the proceedings of the Council on the agenda item as a whole. The many instances in which merely incidental reference has been made to the text of the Charter in the statements of representatives on the Council are excluded as not germane to the *Repertoire of Practice*.

³ *Organization and Procedure of United Nations Commissions*. United Nations publications, 1949-1950.X.1-12.

Part I

ANALYTICAL TABLE OF MEASURES ADOPTED BY THE SECURITY COUNCIL

NOTE

The entries in this tabulation are restricted to a reference to the question, the date of the decision and the serial number of the decision in the S/ series. Reference to subsidiary organs has also been included where appropriate. In most instances paragraph numbers have been indicated to facilitate reference to the texts of resolutions in part II of this chapter. The paragraph numbers have been determined in the following manner:

(i) Where a resolution has numbered paragraphs, they have been used in the tabulation;

(ii) Where paragraphs of a resolution are not numbered, the paragraph noted in the tabulation can be located by counting the paragraphs of the *entire* resolution, beginning with the first paragraph which follows the introductory words—"The Security Council".

I. Preliminary measures for the elucidation of fact

- A. Hearing of interested governments and authorities.
(For invitations extended for the restricted purpose of obtaining information see chapter III, Cases 52, 54, 55, 56, 57. For unrestricted invitations to participate without vote, see the other cases in chapter III, part I, sections C and D)
- B. Appointment of a sub-committee to examine evidence and to conduct an inquiry.
- (i) Spanish question:
Decision of 29 April 1946.
- (ii) Corfu Channel question:
Decision of 27 February 1947.
- C. Establishment of a commission of investigation pursuant to Article 34.
- (i) Greek frontier incidents question:
Decision of 19 December 1946 (S/339).
Decision of 18 April 1947 (S/330/Corr.1).
- (ii) India-Pakistan question:
Decision of 20 January 1948 (S/654).

II. Determination of the nature of the question

- A. Determination of the existence of a dispute or situation the continuance of which is likely to endanger the maintenance of international peace and security.
- (i) India-Pakistan question:
Decision of 21 April 1948 (S/725), para. 5 of preamble.
- B. Determination of the existence of a threat to the peace, breach of the peace, or act of aggression.
- (i) Palestine question:
Decision of 15 July 1948 (S/902), para. 2.
- (ii) Complaint of aggression upon the Republic of Korea:
Decision of 25 June 1950 (S/1501), para. 2.

III. Injunctions to governments and authorities involved in hostilities

- A. Precautionary action.
- (i) Palestine question:
Decision of 5 March 1948 (S/691), para. 3.
- (ii) India-Pakistan question:
President's request of 6 January 1948 (S/636).
Decision of 17 January 1948, para. 4 (S/651).
- B. Cessation of hostilities.
- (i) Indonesian question (II):
Decision of 1 August 1947 (S/459), para. 2.

Decision of 26 August 1947, para. 3.
Decision of 1 November 1947 (S/597), para. 3.
Decision of 24 December 1948 (S/1142), para. 3.
Decision of 28 January 1949 (S/1219), para. 1.

- (ii) Palestine question:
Decision of 1 April 1948 (S/714/I), para. 4.
Decision of 17 April 1948 (S/723), para. 1 (a).
Decision of 22 May 1948 (S/773), para. 2.
Decision of 29 May 1948 (S/801), paras. 1-5.
Decision of 15 July 1948 (S/902), paras. 3, 6.
Decision of 29 December 1948 (S/1169), para. 2.
Decision of 11 August 1949 (S/1376/II), para. 4.
Decision of 8 May 1951 (S/2130), para. 3.
- (iii) India-Pakistan question:
Decision of 21 April 1948 (S/726), para. 3 of preamble and part A.
- (iv) Complaint of aggression upon the Republic of Korea:
Decision of 25 June 1950 (S/1501), part I.

C. Arrangement, maintenance or prolongation of truce.

- (i) Indonesian question (II):
Decision of 29 July 1948 (S/931), para. 2.
- (ii) Palestine question:
Decision of 1 April 1948 (S/714/I), para. 3.
Decision of 7 July 1948 (S/875), para. 2.
Decision of 15 July 1948 (S/902), para. 9.

D. Establishment of an armistice.

- (i) Palestine question:
Decision of 16 November 1948 (S/1080), paras. 4-5.
Decision of 11 August 1949 (S/1376/II), paras. 1-3.

IV. Measures in connexion with injunctions to be taken by the governments and authorities directly involved in hostilities

- A. Withdrawal of fighting personnel.
- (i) Indonesian question (II):
Decision of 1 November 1947 (S/597), para. 6.
Decision of 28 December 1948 (S/1160).
- (ii) Palestine question:
Decision of 19 October 1948 (S/1044), para. 1 (a).
Decision of 4 November 1948 (S/1070), para. 5 (1).
Decision of 16 November 1948 (S/1080), para. 5 (b).
- (iii) India-Pakistan question:
Decision of 21 April 1948 (S/726), part A, paras. 1, 2.
- B. Demilitarization of an area.
- (i) Palestine question:
Decision of 15 July 1948 (S/902), para. 7.
Decision of 4 November 1948 (S/1070), para. 5 (2).
Decision of 25 October 1949.
Decision of 18 May 1951 (S/2157), paras. 3, 4, 10, 11, 12.
- (ii) India-Pakistan question:
Decision of 14 March 1950 (S/1469), paras. 1, 2.
Decision of 30 March 1951 (S/2017/Rev.1), para. 7 (a) of preamble and paras. 3-5.
Decision of 10 November 1951 (S/2392), para. 2.
- C. Delineation of demarcation lines.
- (i) Palestine question:
Decision of 16 November 1948 (S/1080), para. 5 (a).
- D. Restriction on the introduction of new fighting personnel into the area of hostilities.
- (i) Palestine question:
Decision of 17 April 1948 (S/723), para. 1 (b).
Decision of 29 May 1948 (S/801), para. 3.
- (ii) India-Pakistan question:
Decision of 21 April 1948 (S/726), part A, para. 1 (a).

E. Restriction on the importation or furnishing of war materials.

- (i) Palestine question:
Decision of 17 April 1948 (S/723), para. 1 (c).
Decision of 29 May 1948 (S/801), para. 5.
- (ii) India-Pakistan question:
Decision of 21 April 1948 (S/726), part A, para. 1 (a).

F. Restriction on the mobilization of men of military age.

- (i) Palestine question:
Decision of 29 May 1948 (S/801), para. 4.

G. Release of political prisoners.

- (i) Indonesian question (II):
Decision of 24 December 1948 (S/1142, S/1145), para. 3 (b).
Decision of 28 December 1948 (S/1164), para. 2.
Decision of 28 January 1949 (S/1234), para. 2.

H. Protection of Holy Places.

- (i) Palestine question:
Decision of 17 April 1948 (S/723), para. 1 (f).
Decision of 29 May 1948 (S/801), para. 6.
Decision of 15 July 1948 (S/902), para. 7.

I. Protection of life and property.

- (i) Indonesian question (II):
Decision of 1 November 1947 (S/597), para. 3.

J. Freedom of movement and safe conduct of supervision personnel.

- (i) Indonesian question (II):
Decision of 25 August 1947 (S/525), para. 6.
- (ii) Palestine question:
Decision of 19 October 1948 (S/1045), paras. 1, 6.
Decision of 29 December 1948 (S/1169), para. 2 (iii).
Decision of 18 May 1951 (S/2157), paras. 13, 14.

K. Prevention and punishment of breaches of the truce.

- (i) Palestine question:
Decision of 1 April 1948 (S/714/I), para. 3.
Decision of 15 July 1948 (S/903), para. 8.
Decision of 19 August 1948 (S/983), para. 3 (b) (c) (d).
Decision of 19 October 1948 (S/1045), para. 6 (c).

L. Termination of the exercise of the right of visit, search and seizure.

- (i) Palestine question:
Decision of 1 September 1951 (S/2322), paras. 5-10.

V. Measures in connexion with injunctions to be taken by other governments and authorities

A. Prevention of the introduction of fighting personnel.

- (i) Palestine question:
Decision of 17 April 1948 (S/723), para. 3.
Decision of 29 May 1948 (S/801), paras. 3, 13.

B. Prevention of the importation of war materials.

- (i) Palestine question:
Decision of 17 April 1948 (S/723), para. 3.
Decision of 29 May 1948 (S/801), paras. 5, 13.

C. Restriction on assistance by Members to one of the authorities involved.

- (i) Complaint of aggression upon the Republic of Korea:
Decision of 25 June 1950 (S/1501), part III.

D. Provision of assistance by Members in circumstances of a breach of the peace.

1. Relief and support of civilian population.
(i) Complaint of aggression upon the Republic of Korea:
Decision of 31 July 1950 (S/1657).

2. Provision of assistance to repel an armed attack.

- (i) Complaint of aggression upon the Republic of Korea:
Decision of 27 June 1950 (S/1511), para. 6.

3. Availability of military forces for a Unified Command.

- (i) Complaint of aggression upon the Republic of Korea:
Decision of 7 July 1950 (S/1588), para. 3.

4. Designation of the Commander of the Unified Command.

- (i) Complaint of aggression upon the Republic of Korea:
Decision of 7 July 1950 (S/1588), para. 4.

VI. Measures for settlement

A. Compliance with purposes and principles of the Charter.

- (i) Palestine question:
Decision of 17 November 1950 (S/1907), para. 10.
Decision of 8 May 1951 (S/2130), para. 3.
Decision of 18 May 1951 (S/2157), paras. 11, 15.

- (ii) India-Pakistan question:
President's request of 6 January 1948 (S/636).

B. Procedures of pacific settlement noted, advised or recommended.

1. Direct negotiations.

- (i) Iranian question (I):
Decision of 30 January 1946, paras. 3, 4.

- (ii) Iranian question (II):
Decision of 4 April 1946, para. 2.

- (iii) Indonesian question (II):
Decision of 1 November 1947 (S/597), para. 3.
Decision of 28 January 1949 (S/1234), para. 3.
Decision of 23 March 1949.

- (iv) Palestine question:
Decision of 19 October 1948 (S/1044), para. 1 (c).
Decision of 4 November 1948 (S/1070), para. 5 (2).
Decision of 16 November 1948 (S/1080), para. 5.
Decision of 11 August 1949 (S/1376/II), para. 2.

- (v) India-Pakistan question:
Decision of 17 January 1948 (S/651).
Decision of 17 December 1949.

2. Good offices, mediation or conciliation.¹

- (i) Indonesian question (II):
Decision of 25 August 1947 (S/525).
Decision of 28 January 1949 (S/1234), para. 4.

- (ii) Palestine question:
Decision of 29 May 1948 (S/801), para. 8.
Decision of 15 July 1948 (S/902), para. 10.
Decision of 16 November 1948 (S/1080), para. 5.

- (iii) India-Pakistan question:
Decision of 20 January 1948 (S/654), para. C (2).
Decision of 21 April 1948 (S/726), para. 7.
Decision of 14 March 1950 (S/1469), para. 2 (6) (c).

3. Arbitration.

- (i) Indonesian question (II):
Decision of 1 August 1947 (S/459).

- (ii) India-Pakistan question:
Decision of 30 March 1951 (S/2017/Rev.1), para. 6.

4. Judicial settlement.

- (i) Corfu Channel question:
Decision of 9 April 1947 (S/324), para. 2.

C. Provisions bearing on issues of substance, including terms of settlement.

1. Determination of accession of territory by plebiscite.

- (i) India-Pakistan question:
Decision of 21 April 1948 (S/726), part B.

¹ For establishment of subsidiary organs in connexion with these procedures see *infra*, VII B2.

- Decision of 14 March 1950 (S/1469), para. 3.
Decision of 30 March 1951 (S/2017/Rev.1), paras. 3, 4.
Decision of 29 May 1951.
2. Establishment of a governmental authority.
 - (i) Indonesian question (II):
Decision of 28 January 1949 (S/1234), para. 3 (a).
 3. Transfer of sovereignty.
 - (i) Indonesian question (II):
Decision of 28 January 1949 (S/1234), para. 3 (c).
 4. Evacuation of foreign troops.
 - (i) Iranian question (II):
Decision of 4 April 1946, paras. 6, 7.
 5. Election of a constituent assembly.
 - (i) Indonesian question (II):
Decision of 28 January 1949 (S/1234), para. 3 (b).
 - (ii) India-Pakistan question:
Decision of 30 March 1951 (S/2017/Rev.1), paras. 2-5 of preamble.
 6. Protection of civil liberties in connexion with elections.
 - (i) Indonesian question (II):
Decision of 28 January 1949 (S/1234), para. 4 (e).
 - (ii) India-Pakistan question:
Decision of 21 April 1948 (S/726), paras. 12, 14.
 7. Repatriation.
 - (i) Palestine question:
Decision of 17 November 1950 (S/1907), paras. 5-7.
Decision of 18 May 1951 (S/2157), para. 12.
 - (ii) India-Pakistan question:
Decision of 21 April 1948 (S/726), para. 14.
 8. Interim administration of territory in dispute.
 - (i) Indonesian question (II):
Decision of 28 January 1949 (S/1234), para. 2.
 - (ii) Palestine question:
Decision of 18 May 1951 (S/2157), para. 10.
 - (iii) India-Pakistan question:
Decision of 21 April 1948 (S/726), part B.
 9. Release of political prisoners.
 - (i) Indonesian question (II):
Decision of 24 December 1948 (S/1142, S/1145), para. 3 (b).
Decision of 28 December 1948 (S/1164), para. 2.
Decision of 28 January 1949 (S/1234), para. 2.
 - (ii) India-Pakistan question:
Decision of 21 April 1948 (S/726), para. 14.
 10. Compliance with treaties and agreements setting forth the basis for a political settlement.
 - (i) Indonesian question (II):
Decision of 25 August 1947 (S/525), para. 2.
Decision of 29 July 1948 (S/931), para. 2.
Decision of 28 January 1949 (S/1234), para. 3.
 - (ii) India-Pakistan question:
Decision of 30 March 1951 (S/2017/Rev.1), para. 6.
Decision of 29 May 1951.
- D. In connexion with the General Assembly.
- (i) Spanish question:
Decision of 4 November 1946.
 - (ii) Greek Frontier Incidents question:
Decision of 15 September 1947 (S/555).
 - (iii) Palestine question:
Decision of 1 April 1948 (S/7714/II).
- VII. Measures to promote the implementation of resolutions of the Security Council**
- A. Notice of possible action under Chapter VII of the Charter.
- (i) Palestine question:
Decision of 29 May 1948 (S/801), para. 12.
- Decision of 15 July 1948 (S/902), para. 4.
Decision of 4 November 1948 (S/1070), para. 6.
- B. Establishment or employment of subsidiary organs.
1. For observation or supervision in connexion with the ending of hostilities.
 - (i) Indonesian question (II):
Decision of 25 August 1947 (S/525), para. 5 (Consular Commission at Batavia).
Decision of 24 December 1948 (S/1142, S/1145) (Committee of Good Offices).
Decision of 28 January 1949 (S/1234), para. 4 (United Nations Commission for Indonesia, and Consular Commission at Batavia).
 - (ii) Palestine question:
Decision of 23 April 1948 (S/727) (Truce Commission).
Decision of 12 May 1948 (Truce Commission).
Decision of 29 May 1948 (S/801), para. 7 (Mediator and Truce Commission).
Decision of 15 July 1948 (S/902), para. 8 (Mediator).
Decision of 16 November 1948 (S/1080), para. 5 (Acting Mediator).
Decision of 11 August 1949 (S/1376/II), para. 7 (Chief of Staff of the Truce Supervision Organization).
 - (iii) India-Pakistan question:
Decision of 12 April 1948 (S/726), para. 17 (United Nations Commission for India and Pakistan).
Decision of 14 March 1950 (S/1469), para. 2 (a) (United Nations Commission for India and Pakistan).
Decision of 30 March 1951 (S/2017/Rev.1), paras. 3, 7 (United Nations Representative for India and Pakistan).
 - (iv) Complaint of aggression upon the Republic of Korea:
Decision of 25 June 1950 (S/1501), part II, para. 2 (United Nations Commission on Korea).
 2. For good offices, mediation or conciliation.
 - (i) Indonesian question (II):
Decision of 25 August 1947 (S/525/II) (Committee of Good Offices).
Decision of 28 January 1949 (S/1234), para. 4 (United Nations Commission for Indonesia).
 - (ii) Palestine question:
Decision of 29 May 1948 (S/801), para. 8 (Mediator).
Decision of 15 July 1948 (S/902), para. 10 (Mediator).
Decision of 16 November 1948 (S/1080), para. 5 (Acting Mediator).
 - (iii) India-Pakistan question:
Decision of 20 January 1948 (S/654), para. C (United Nations Commission for India and Pakistan).
Decision of 21 April 1948 (S/726) (United Nations Commission for India and Pakistan).
Decision of 3 June 1948 (S/819) (United Nations Commission for India and Pakistan).
Decision of 14 March 1950 (S/1469), para. 2 (b) (c) (United Nations Representatives for India and Pakistan).
 3. For the organization of a plebiscite.
 - (i) India-Pakistan question:
Decision of 21 April 1948 (S/726), part B (Plebiscite Administrator).
- C. Intercession by the President.
- (i) Palestine question:
Report of the President of 15 April 1948.
 - (ii) India-Pakistan question:
President's request of 6 January 1948 (S/636).
Decision of 17 January 1948 (S/651).
Decision of 17 December 1949.
 - (iii) Identical notifications dated 29 September 1948:
Action of the President on 30 November 1948 (Press Release SC/908).
- D. Endorsement of decisions of subsidiary organs.
- (i) Palestine question:
Decision of 15 June 1948 (S/837).

- Decision of 19 October 1948 (S/1044).
 Decision of 29 December 1948 (S/1169), para. 2 (ii).
 Decision of 18 May 1951 (S/2157), paras. 5, 10.
 Decision of 1 September 1951 (S/2322), paras. 3, 10.
- (ii) India-Pakistan question:
 Decision of 25 November 1948.
 Decision of 10 November 1951 (S/2392), para. 2 of preamble.
- E. Time limits fixed for compliance.
- (i) Iranian question (II):
 Decision of 8 May 1946, para. 3.
- (ii) Indonesian question (II):
 Decision of 28 December 1948 (S/1164), para. 2.
 Decision of 28 January 1949 (S/1234), para. 3.
- (iii) Palestine question:
 Decision of 22 May 1948 (S/773), para. 2.
 Decision of 24 May 1948.
 Decision of 29 May 1948 (S/801), para. 11.
 Decision of 2 June 1948 (S/814).
 Decision of 15 July 1948 (S/902), para. 3.
- (iv) India-Pakistan question:
 Decision of 14 March 1950 (S/1469), para. 1.
- F. Reaffirmation of previous decisions.
- (i) Indonesian question (II):
 Decision of 26 August 1947 (S/521).
- (ii) Palestine question:
 Decision of 19 October 1948 (S/1045), para. 4.
 Decision of 16 November 1948 (S/1080), para. 1.
 Decision of 11 August 1949 (S/1376/II), para. 4.
 Decision of 8 May 1951 (S/2130), paras. 1, 3.
 Decision of 18 May 1951 (S/2157), para. 1.
 Decision of 1 September 1951 (S/2322), paras. 1, 2.
- (iii) India-Pakistan question:
 Decision of 21 April 1948 (S/726), para. 6 of preamble.
 Decision of 3 June 1948 (S/819), para. 2.
 Decision of 30 March 1951 (S/2017/Rev.1), para. 4 of preamble.
- VIII. Measures to ensure further consideration and to ascertain compliance**
- A. Request for information on the progress of settlement.
1. From the parties.
- (i) Iranian question (I):
 Decision of 30 January 1946, para. 4.
- (ii) Iranian question (II):
 Decision of 4 April 1946.
 Decision of 8 May 1946, para. 3.
- (iii) Palestine question:
 Decision of 18 May 1948 (S/753).
 Decision of 8 July 1948.
- (iv) India-Pakistan question:
 Decision of 17 January 1948, para. 5.
2. From the Secretary-General.
- (i) Iranian question (II):
 Decision of 29 March 1946.
3. From subsidiary organs.
- (i) Indonesian question (II):
 Decision of 28 February 1948 (S/678), para. 5.
 Decision of 28 February 1948 (S/689).
 Decision of 6 July 1948.
 Decision of 24 December 1948 (S/1150), para. 4.
 Decision of 28 January 1949 (S/1234), para. 4.
- (ii) Palestine question:
 Decision of 23 April 1948 (S/727), para. 3.
 Decision of 22 May 1948 (S/773), para. 4.
 Decision of 29 May 1948 (S/801), para. 10.
 Decision of 8 July 1948.
 Decision of 15 July 1948 (S/902), para. 8.
 Decision of 4 November 1948 (S/1070), para. 6.
 Decision of 29 December 1948 (S/1169), para. 3.
 Decision of 11 August 1949 (S/1376/II), para. 8.
 Decision of 17 November 1950 (S/1907), para. 11.
 Decision of 18 May 1951 (S/2157), para. 17.
- (iii) India-Pakistan question:
 Decision of 20 January 1948 (S/654), para. C.2
 Decision of 21 April 1948 (S/726), paras. 7, 8.
 Decision of 3 June 1948 (S/819), para. 3.
 Decision of 14 March 1950 (S/1469), para. 2 (e).
 Decision of 10 November 1951 (S/2392), para. 4.
- (iv) Complaint of aggression upon the Republic of Korea:
 Decision of 25 June 1950 (S/1501), part II.
- B. Retention of the question by express decision on the list of matters of which the Security Council is seized.
- (i) Spanish question:
 Decision of 26 June 1946.
- C. Provision by express decision to consider the matter further.
- (i) Iranian question (II):
 Decision of 4 April 1946, para. 7.
- (ii) Indonesian question (II):
 Decision of 25 August 1947 (S/525/I), para. 7.

Part II

THE IRANIAN QUESTION (I)

INITIAL PROCEEDINGS

By letter dated 19 January 1946,¹ Iran stated that, owing to interference of the Soviet Union in the internal affairs of Iran, a situation had arisen which might lead to international friction. The communication continued:

"In accordance with Article 33 of the Charter of the United Nations, the Iranian Government has repeatedly tried to negotiate with the Government of the Soviet Union, but has met with no success."

Iran, in accordance with Article 35 (1), was therefore bringing the matter to the attention of the Security Council so that the Council might "investigate the situation and recommend appropriate terms of settlement".

By letter dated 24 January 1946,² the USSR denied the allegation that it had interfered in the internal affairs of Iran and stated that the Iranian Government had

entered into negotiations with the USSR Government. Alleging that hostile propaganda tolerated by the Iranian Government had created for the Azerbaijan SSR and for Baku a danger of organized hostile actions, the USSR concluded that

". . . questions of this kind, which affect the relations between two neighbouring States, the USSR and Iran, can and should be settled by means of bilateral negotiations between the Soviet Government and the Iranian Government. The Soviet Government did not and does not refuse to accept this method of settling such questions arising between Allied Governments.

"In view of these facts, and taking into consideration that in this particular case the conditions envisaged by Articles 34 and 35 of the Charter of the United Nations are lacking, the Soviet delegation regards the appeal of the Iranian delegation to the Security Council as devoid of any foundation and is categorically opposed to the consideration of the above-mentioned appeal of the Iranian delegation by the Security Council."

¹ O.R., 1st year, 1st series, Suppl. No. 1, pp. 16-17.

² O.R., 1st year, 1st series, Suppl. No. 1, pp. 17-19.

By letter dated 26 January 1946,³ Iran replied that the conditions envisaged by Article 25 (sic) were present.

At its 2nd meeting on 25 January 1946, the Council included the question in the agenda.⁴

The Council considered the question at its 3rd and 5th meetings on 28 and 30 January 1946.

At the 3rd meeting on 28 January, the representative of Iran urged the Council to recommend in accordance with Article 2 (4) that, pending the completion of the withdrawal of the Soviet forces, Soviet authorities should cease to interfere in the internal affairs of Iran and should not prevent Iranian forces and officials from proceeding freely in and through territory in which Soviet forces were stationed or from the full exercise of their duties.⁵

At the same meeting, the representative of the USSR declared that negotiations had taken place between the Iranian and USSR Governments in November 1945 and had produced satisfactory results.⁶ He stated that there were no grounds for considering the substance of the Iranian statement, and suggested that the USSR and Iran should be given the opportunity to settle the matter.⁷

Decision of 30 January 1946 (5th meeting): Request to the USSR and Iran to inform the Council of the results of negotiations between them

At the 5th meeting on 30 January 1946, the representative of the United Kingdom submitted a draft resolution, the last paragraph of which read:⁸

"Requests the parties to inform the Council of any result achieved, and the Council in the meanwhile retains the right at any time to request information as to the progress of the negotiations. In the meantime the matter remains on the agenda."

After withdrawal by the representative of the United Kingdom of the provision to retain the matter on the agenda, the draft resolution was adopted unanimously.⁹ The resolution as adopted read:¹⁰

"The Council,

"Having heard the statements by the representatives of the Soviet Union and Iran in the course of its meetings of 28 and 30 January, and

"Having taken cognizance of the documents presented by the Soviet and Iranian delegations and those referred to in the course of the oral debates;

"Considering that both parties have affirmed their readiness to seek a solution of the matter at issue by negotiation; and that such negotiations will be resumed in the near future,

"Requests the parties to inform the Council of any results achieved in such negotiations. The Council in the meanwhile retains the right at any time to request information on the progress of the negotiations."

³ S/1, O.R., 1st year, 1st series, Suppl. No. 1, pp. 19-24.

⁴ 2nd meeting: p. 16. On the inclusion of the question in the agenda, see chapter II, Case 27.

⁵ 3rd meeting: p. 38.

⁶ 3rd meeting: pp. 39-41.

⁷ 5th meeting: pp. 42-43. Concerning the continuance of negotiations in relation to the competence of the Council, see chapter X, Case 1.

⁸ 5th meeting: p. 64.

⁹ 5th meeting: p. 71.

¹⁰ 5th meeting: pp. 70, 71. Regarding retention on the agenda in relation to the resumption of negotiations, see chapter X, Case 20.

THE GREEK QUESTION: USSR COMMUNICATION DATED 21 JANUARY 1946

INITIAL PROCEEDINGS

By letter dated 21 January 1946,¹¹ the USSR, under Article 35 of the Charter, brought the situation in Greece to the attention of the Security Council. It charged that the presence of United Kingdom troops in Greece and ensuing interference in the internal affairs of that State was causing "extreme tension fraught with the possibility of serious consequences both for the Greek people and for the maintenance of peace and security". The USSR requested the Council to discuss the question and "take the measures provided for by the Charter to put an end to the situation".

At the 3rd meeting on 28 January 1946, the Council included the communication from the USSR Government in the agenda.

The Council considered the question at its 6th to 8th and 10th meetings, between 1 and 6 February 1946.

Decision of 4 February 1946 (7th meeting): Rejection of proposal submitted by the representative of Poland

Following statements by representatives of the USSR, the United Kingdom and Greece, the representative of the United States suggested at the 7th meeting on 4 February that no formal action be taken in this case and that the three Governments be thanked for the statements that had been made in explanation of the position.¹²

At the same meeting, the President (Australia) suggested that, since no motion was before the Council, it was the sense of the Council that there was nothing inherent in the Greek situation at that time likely to lead to international friction or to endanger the maintenance of international peace and security and that the matter was therefore closed.¹³

The representatives of Poland,¹⁴ Egypt¹⁵ and the USSR¹⁶ then made proposals as to a statement to be made by the President expressing the sense of the Council. The representative of the USSR later withdrew his proposal¹⁷ in favour of the Polish proposal according to which the Council would take

"... note of the statements setting out the declarations of the Soviet Union, Great Britain and Greece, and of the assurance given by the representative of the United Kingdom that British troops in Greece will be withdrawn as soon as possible, and considers the question as closed."

At the 7th meeting on 4 February, the proposal submitted by the representative of Poland was rejected, having failed to obtain the affirmative votes of 7 members. There were 2 votes in favour.¹⁸

Decision of 6 February 1946 (10th meeting): Taking note of declarations made and views expressed

At the 10th meeting on 6 February 1946, the President (Australia) read a statement¹⁹ which, in his view, might be accepted as a statement of the Council.

¹¹ O.R., 1st year, 1st series, Suppl. No. 1, pp. 73-74.

¹² 7th meeting: p. 112.

¹³ 7th meeting: p. 122.

¹⁴ 7th meeting: p. 122.

¹⁵ 7th meeting: pp. 122-123.

¹⁶ 7th meeting: p. 123.

¹⁷ 7th meeting: p. 124.

¹⁸ 7th meeting: pp. 125-126.

¹⁹ 10th meeting: p. 165.

At the same meeting, the President withdrew his statement in favour of the following text of a statement to be made by the President, prepared by the representatives of the USSR and the United States:²⁰

"I feel we should take note of the declarations made before the Security Council by the representatives of the Union of Soviet Socialist Republics, the United Kingdom and Greece, and also the views expressed by the representatives of the following members of the Security Council: The United States of America, France, China, Australia, Poland, the Netherlands, Egypt and Brazil, in regard to the question of the presence of British troops in Greece, as recorded in the proceedings of the Council, and consider the matter as closed."

The President stated²¹ that it was his understanding that it would be the wish of the Council to proceed to the next item on the agenda.²²

THE INDONESIAN QUESTION (I)

INITIAL PROCEEDINGS

By letter dated 21 January 1946,²³ the Ukrainian SSR*, in accordance with Article 35 (1), drew the attention of the Security Council to the situation which had arisen in Indonesia. Military operations had been directed against the local population—operations in which regular British troops as well as Japanese forces had been taking part. In the opinion of the Ukrainian Government, the situation constituted "a threat to the maintenance of international peace and security . . . covered by Article 34". The Ukrainian SSR asked the Council to carry out the necessary investigation and to take the measures provided for by the Charter in order to put an end to the situation which had arisen.

At its 2nd meeting on 25 January 1946, the Council included the question in the agenda.

The question was considered by the Council at the 12th to 18th meetings held between 7 and 13 February 1946.²⁴

Decision of 13 February 1946 (18th meeting): Rejection of draft resolution submitted by the representative of the Ukrainian SSR

At the 16th meeting on 11 February 1946, the representative of the Ukrainian SSR submitted a draft resolution²⁵ to set up a commission to carry out an inquiry on the spot.

At the 18th meeting on 13 February, the Ukrainian draft resolution was rejected, having failed to obtain the affirmative votes of 7 members. There were 2 votes in favour.²⁶

Decision of 13 February 1946 (18th meeting): Rejection of draft resolution submitted by the representative of Egypt

At the 17th meeting on 12 February 1946, the representative of Egypt submitted a draft resolution²⁷ to declare that it was clearly understood that British troops would not be used in any circumstances against the Indonesian national movement and that they would be withdrawn after the completion of their duties. The Council would also express its will to be informed in a short time of the results of the negotiations going on between the Netherlands and the Indonesian leaders and reserve to itself the right to take such further action as it thought proper.

At the 18th meeting on 13 February, the representative of the USSR submitted an amendment²⁸ to the Egyptian proposal to add a provision to set up a commission to clarify the Indonesian situation and hasten the re-establishment of normal conditions.

At the same meeting, the USSR amendment was rejected, having failed to obtain the affirmative votes of 7 members. There were 3 votes in favour. The Egyptian draft resolution was rejected, having failed to obtain the affirmative votes of 7 members. There were 2 votes in favour.²⁹

The President (Australia) thereupon declared that the matter was closed.

THE SYRIAN AND LEBANESE QUESTION

INITIAL PROCEEDINGS

By letter dated 4 February 1946,³⁰ Syria and Lebanon brought to the attention of the Security Council, under Article 34, the presence of French and British troops in Syria and Lebanon which, they contended, constituted a grave infringement of the sovereignty of two States Members of the United Nations. The letter stated that the Governments of Syria and Lebanon had expected that these foreign troops would be withdrawn immediately upon the cessation of hostilities with Germany and Japan, but that the Franco-British Agreement of 13 December 1945 had made the withdrawal of troops subject to conditions which were inconsistent with the spirit and letter of the United Nations Charter. In bringing the dispute to the attention of the Council, the Syrian and Lebanese delegations requested the Council to recommend the total and simultaneous evacuation of the foreign troops from the territories of Syria and Lebanon.

At its 19th meeting on 14 February 1946, the Council included the question in the agenda.³¹

The Council considered the Syrian and Lebanese question at the 19th to 23rd meetings between 14 and 16 February 1946.³²

At the 20th and 21st meetings on 15 February 1946, the representatives of Syria and Lebanon declared that the presence of the foreign troops, without the consent of the two States concerned, had created a dispute threatening international peace and had become a source of possible intervention in the internal affairs of the two States Members of the United Nations. They maintained that the Agreement of 13 December 1945 was in

²⁰ 10th meeting: pp. 171-172.

²¹ 10th meeting: p. 172.

²² For consideration of the relation of the proceedings to chapter VI of the Charter, see chapter X, Case 21.

²³ O.R., 1st year, 1st series, Suppl. No. 1, p. 76.

²⁴ For the question of domestic jurisdiction in connexion with this case, see chapter XII, Case 1; for the applicability of Article 34, see chapter X, Case 7.

²⁵ 16th meeting: p. 223.

²⁶ 18th meeting: p. 258.

²⁷ 17th meeting: p. 251.

²⁸ 18th meeting: p. 260.

²⁹ 18th meeting: p. 263.

³⁰ S/5, O.R., 1st year, 1st series, Suppl. No. 1, pp. 82-83.

³¹ 19th meeting: p. 271.

³² For consideration of this question in relation to Article 33, see chapter X, Case 2.

violation of the principle of sovereign equality of the Members of the United Nations and contrary to the terms of Article 2 of the Charter. Their delegations were prepared to consider a solution which, based on the principles of the Charter, would provide for the simultaneous and unconditional withdrawal of the troops, subject to the time required for making the necessary technical and material arrangements, and would recognize that the question should be settled under the auspices of the Council until the withdrawal had been fully carried out.³³

In the opinion of the representative of France, the fact that the Syrian and Lebanese Governments had invoked Article 34, without having stated precisely who were the parties to the possible dispute, and had not referred to Articles 35 and 33, indicated that there was no dispute, and that the existing situation in Syria and Lebanon could not in good faith be considered as likely to endanger international peace and security.³⁴ He further stated:

"The Agreement of 13 December is not interpreted by the signatories as implying any intention to maintain troops in the Levant indefinitely in the absence of a decision on the part of the Security Council. My Government is prepared to examine the question with the Syrian and Lebanese Governments with a view to settling with them the details of this solution."

The representative of the United Kingdom associated himself with the interpretation given by the representative of France to the Agreement of 13 December 1945.³⁵

Decisions of 16 February 1946 (23rd meeting): Rejection of draft resolutions submitted by the representatives of Mexico, Egypt and the United States

During the consideration of the question, four draft resolutions were submitted to the Council:

(i) A Netherlands draft resolution, submitted at the 21st meeting on 15 February, to express confidence that, as a result of negotiations or otherwise, the foreign troops in Syria and Lebanon would be withdrawn at no distant date, and to request the parties to inform the Council when that had been done;³⁶

(ii) A Mexican draft resolution, submitted at the 22nd meeting on 16 February, to recommend that the date of the simultaneous evacuation of British and French troops should be fixed by the parties through negotiations concerned with the necessary military-technical arrangements, and to request the parties to inform the Council when that was done;³⁷

(iii) An Egyptian draft resolution, submitted at the same meeting, to recommend the parties to enter into negotiations as soon as possible with a view to establishing the technical details of the simultaneous withdrawal of French and United Kingdom troops, including the fixing of the date of its completion, and to request them to keep the Council informed of the result of those negotiations;³⁸

(iv) A United States draft resolution, submitted at the same meeting, to express confidence that foreign troops in Syria and Lebanon would be withdrawn as soon as practicable and that negotiations to that end

would be undertaken by the parties without delay, and to request the parties to inform the Council of the results of the negotiations.³⁹

At the 23rd meeting on 16 February, the Netherlands draft resolution was withdrawn.⁴⁰ The Mexican and Egyptian draft resolutions were rejected, having failed to obtain the affirmative votes of 7 members. There were 4 votes in favour of each draft resolution.⁴¹

The United States draft resolution was not adopted. There were 7 votes in favour, 1 against (the vote against being that of a permanent member) and 3 abstentions.⁴²

The representatives of France and the United Kingdom stated that they would, however, give effect to the United States draft resolution.⁴³

By letters dated 30 April and 1 May 1946, the representatives of France and the United Kingdom respectively informed the Council of arrangements made for the withdrawal of forces in fulfilment of the undertaking regarding the United States proposal.⁴⁴

THE IRANIAN QUESTION (II)

INITIAL PROCEEDINGS

By letter dated 18 March 1946,⁴⁵ the representative of Iran informed the Security Council, under Article 35 (1), that a new dispute had arisen between Iran and the USSR as a result of the maintenance of Soviet troops in Iranian territory after 2 March 1946, contrary to the provisions of the Tripartite Treaty of Alliance of 29 January 1942, and the continued interference of the USSR in the internal affairs of Iran. By letter dated 20 March 1946,⁴⁶ he added that negotiations conducted pursuant to the resolution of 30 January had failed.

At the 26th meeting on 26 March 1946, the Council included the question in the agenda.⁴⁷

The Security Council considered the question at its 26th through 30th meetings between 26 March and 4 April, 32nd and 33rd meetings on 15 and 16 April, 36th meeting on 23 April, 40th meeting on 8 May and 43rd meeting on 22 May 1946.

At the 26th and 27th meetings on 26 and 27 March, the Council had under consideration the USSR proposal to postpone consideration of the Iranian communication until 10 April.⁴⁸

On the rejection of this proposal at the 27th meeting on 27 March,⁴⁹ the representative of the USSR, having stated that he was not in a position to take part in a discussion of the Iranian question after the rejection of his proposal, left the Council chamber.⁵⁰

³³ 22nd meeting: pp. 332-333.

³⁴ 23rd meeting: p. 354.

³⁵ 23rd meeting: p. 364.

³⁶ 23rd meeting: pp. 367-368.

³⁷ 23rd meeting: p. 368.

³⁸ S/52, Security Council Journal No. 33, p. 639; S/51, Security Council Journal No. 33, p. 641. For communications by Syria and Lebanon, see S/64, Security Council Journal No. 36, p. 712; S/90, Security Council Journal No. 41, p. 815.

³⁹ S/15, *O.R.*, 1st year, 1st series, *Suppl. No. 2*, pp. 43-44.

⁴⁰ S/18, *O.R.*, 1st year, 1st series, *Suppl. No. 2*, p. 45.

⁴¹ 26th meeting: p. 27. For consideration of the inclusion of the question in the agenda, see chapter II, Case 16.

⁴² 26th meeting: p. 30.

⁴³ 27th meeting: p. 56.

⁴⁴ 27th meeting: p. 58.

³⁸ 20th meeting: pp. 284-289; 21st meeting: p. 300.

³⁴ 20th meeting: pp. 292-293.

³⁵ 20th meeting: p. 295.

³⁶ 21st meeting: p. 317.

³⁷ 22nd meeting: p. 319.

³⁸ 22nd meeting: pp. 323-324.

The representative of Iran was invited, on the proposal of the representative of Egypt,⁵¹ to take his seat at the Council table and to state his point of view concerning the question of postponement.⁵² He declared that he knew of no agreement or understanding between his Government and the Government of the USSR with respect to any matters involved in the dispute referred to the Council. He opposed any postponement of consideration of the question.⁵³

Decision of 29 March 1946 (28th meeting): Request to the Secretary-General to report on the existing status of negotiations between the Iranian and USSR Governments

At the 28th meeting on 29 March 1946, the representative of the United States suggested that the President (China) request the Secretary-General to ascertain at once from the Governments of the USSR and Iran, and to report to the Council on 3 April, the existing status of the negotiations between the two Governments, and particularly whether or not the reported withdrawal of troops was conditional upon the conclusion of agreements on other subjects.⁵⁴

The suggestion was adopted unanimously, with one member being absent.⁵⁵

Decision of 4 April 1946 (30th meeting): Deferring proceedings on the Iranian appeal until 6 May and requesting a report from the Iranian and USSR Governments

At its 29th meeting on 3 April 1946, the Council received from the Secretary-General a report⁵⁶ in accordance with the decision of 29 March, including copies of communications from the representatives of Iran and the USSR. By letter dated 3 April 1946,⁵⁷ the representative of the USSR had replied that negotiations had already led to an understanding regarding the withdrawal of USSR troops from Iran and that other questions were not connected with the question of withdrawal. By letter dated 2 April 1946,⁵⁸ the representative of Iran had replied that negotiations pursuant to the Council resolution of 30 January had achieved no positive results, and that there had been and could be no negotiation concerning the withdrawal of USSR troops from Iran. The USSR had informed Iran on 24 March that the troops would be evacuated within five or six weeks, unless unforeseen circumstances should occur, but Iran had objected to the condition and no understanding had been arrived at.

At the same meeting, the representative of Iran informed the Council that, if the representative of the USSR withdrew the condition concerning unforeseen circumstances and assured the Council that the unconditional withdrawal of the troops would be effected by 6 May, Iran would not at that time press the matter provided that it remained on the agenda of the Council for consideration at any time.⁵⁹

At the 30th meeting on 4 April, the representative of the United States submitted a draft resolution⁶⁰ to defer further proceedings on the question until 6 May, at which time the Governments of the USSR and Iran were requested to report to the Council whether the withdrawal of all USSR troops from Iran had been completed.

At the same meeting, the Council adopted the United States draft resolution by 9 votes in favour, 1 abstention, and one member being absent.⁶¹ The resolution read as follows:

"The Security Council,

"Taking note of the statements by the Iranian representative that the Iranian appeal to the Council arises from the presence of USSR troops in Iran and their continued presence there beyond the date stipulated for their withdrawal in the Tri-partite Treaty of 29 January 1942;

"Taking note of the replies dated 3 April of the Government of the Union of Soviet Socialist Republics and the Iranian Government pursuant to the request of the Secretary-General for information as to the state of the negotiations between the two Governments and as to whether the withdrawal of USSR troops from Iran is conditional upon agreement on other subjects;

"And in particular taking note of and relying upon the assurances of the USSR Government:

"That the withdrawal of USSR troops from Iran has already commenced;

"That it is the intention of the USSR Government to proceed with the withdrawal of its troops as rapidly as possible;

"That the USSR Government expects the withdrawal of all USSR troops from the whole of Iran to be completed within five or six weeks; and

"That the proposals under negotiation between the Iranian Government and the USSR Government 'are not connected with the withdrawal of USSR troops';

"Being solicitous to avoid any possibility of the presence of USSR troops in Iran being used to influence the course of the negotiations between the Governments of Iran and the Union of Soviet Socialist Republics; and

"Recognizing that the withdrawal of all USSR troops from the whole of Iran cannot be completed in a substantially shorter period of time than that within which the USSR Government has declared it to be its intention to complete such withdrawal;

"Resolves that the Council defer further proceedings on the Iranian appeal until 6 May, at which time the USSR Government and the Iranian Government are requested to report to the Council whether the withdrawal of all USSR troops from the whole of Iran has been completed and at which time the Council shall consider what, if any, further proceedings on the Iranian appeal are required;

"Provided, however, that if in the meantime either the USSR Government or the Iranian Government or any member of the Security Council reports to the Secretary-General any developments which may retard or threaten to retard the prompt withdrawal of

⁵¹ 27th meeting: p. 61.

⁵² For consideration of the invitation to Iran, see chapter III, Case 12.

⁵³ 27th meeting: pp. 63, 68.

⁵⁴ 28th meeting: pp. 75-76.

⁵⁵ 28th meeting: p. 82.

⁵⁶ S/26, O.R., 1st year, 1st series, Suppl. No. 2, pp. 83-86.

⁵⁷ S/24, 29th meeting: p. 84.

⁵⁸ S/25, 29th meeting: pp. 85-86.

⁵⁹ 29th meeting: p. 87.

⁶⁰ 30th meeting: pp. 88-89.

⁶¹ 30th meeting: p. 97.

USSR troops from Iran, in accordance with the assurances of the USSR to the Council, the Secretary-General shall immediately call to the attention of the Council such reports, which shall be considered as the first item on the agenda."

Decision of 23 April 1946 (36th meeting): Rejection of draft resolution submitted by the representative of France

By letter dated 6 April 1946,⁶² the representative of the USSR proposed that the Iranian question be removed from the agenda of the Council. He stated that an understanding on all points had been reached between the Governments of the USSR and Iran, and that the resolution of 4 April was incorrect and illegal since the position in Iran had not threatened international peace and security.

By letter dated 9 April 1946, the representative of Iran informed the Council that it was his Government's desire that the question remain on the agenda of the Council as provided by the resolution of 4 April 1946.⁶³

By letter dated 15 April 1946, the representative of Iran informed the Council that his Government had complete confidence in the pledge of the USSR to withdraw unconditionally the Soviet forces from Iranian territory and that, therefore, Iran was withdrawing its complaint from the Security Council.⁶⁴

These communications were considered at the 32nd and 33rd meetings on 15 and 16 April and at the 36th meeting on 23 April.

At the 33rd meeting on 16 April, the representative of France submitted a draft resolution⁶⁵ to take note of the letter from the representative of Iran informing the Council of the withdrawal of his complaint, to note that agreement had been reached between the two Governments concerned, and to request the Secretary-General to collect the necessary information in order to complete the report of the Council to the General Assembly.⁶⁶

At the 36th meeting on 23 April, the Council rejected the French draft resolution by 3 votes in favour and 8 against.⁶⁷

The representative of the USSR stated that the decision to retain the Iranian question on the agenda was contrary to the Charter and that his delegation could not in future take part in discussions of the question by the Council.⁶⁸

Decision of 8 May 1946 (40th meeting): Deferring further proceedings and requesting a report from the Iranian Government

By letter dated 6 May 1946,⁶⁹ the representative of Iran informed the Council that his Government had been able to verify the evacuation of USSR troops from four provinces but, because of the interferences complained of, it could not verify the evacuation from Azerbaijan.

⁶² S/30, O.R., 1st year, 1st series, Suppl. No. 2, pp. 46-47.

⁶³ S/33, O.R., 1st year, 1st series, Suppl. No. 2, p. 47.

⁶⁴ S/37, G.A.O.R., 1st session, 2nd part, Suppl. No. 1, (A/93), annex 3, pp. 104-105.

⁶⁵ 33rd meeting: pp. 142-143.

⁶⁶ For consideration of procedure regarding the removal of the Iranian question from the agenda, see chapter II, Case 5. For discussion in relation to Article 24, see chapter XII, Case 20.

⁶⁷ 36th meeting: p. 213.

⁶⁸ 36th meeting: p. 214.

⁶⁹ S/53, O.R., 1st year, 1st series, Suppl. No. 2, pp. 50-51.

The Council considered the communication at its 40th meeting on 8 May 1946.

The representative of the United States submitted a draft resolution⁷⁰ to defer further proceedings and to request the Iranian Government to submit a complete report on the withdrawal of USSR troops immediately upon the receipt of information and, in case it was unable to obtain such information by 20 May, to report on that date such information as was available to it.

At the same meeting, the United States draft resolution was adopted by 10 votes in favour, with one member being absent.⁷¹ The resolution read as follows:

"The Security Council,

"Having considered the statement made by the Iranian Government in its preliminary report of 6 May, submitted in compliance with the resolution of 4 April 1946, that it was not able as of 6 May to state whether the withdrawal of all USSR troops from the whole of Iran had been completed,

"Resolves,

"To defer further proceedings on the Iranian matter in order that the Government of Iran may have time in which to ascertain through its official representatives whether all USSR troops have been withdrawn from the whole of Iran;

"To request the Iranian Government to submit a complete report on the subject to the Security Council immediately upon the receipt of the information which will enable it so to do; and, in case it is unable to obtain such information by 20 May, to report on that day such information as is available to it at that time; and

"To consider immediately following the receipt from the Iranian Government of the report requested, what further proceedings may be required."

Decision of 22 May 1946 (43rd meeting): Adjournment of discussion on Iranian question

In accordance with the resolution of 8 May 1946, the representative of Iran submitted two communications dated 20 May and 21 May respectively.⁷² In the latter communication he stated that an Iranian commission of investigation had investigated carefully the regions of Azerbaijan and found no trace of USSR troops, equipment or means of support.

The Council considered the communication at its 43rd meeting on 22 May 1946. The representative of Poland proposed that the President (France) be commissioned to send a telegram to the Government of Iran asking it if it was satisfied that USSR troops had been withdrawn.⁷³ The representative of the Netherlands proposed that the Council "adjourn the discussion of the Iranian question until a date in the near future, the Council to be called together at the request of any member".⁷⁴

At the same meeting, the Netherlands proposal was adopted by 9 votes in favour to 1 against and 1 member

⁷⁰ 40th meeting: pp. 247-248.

⁷¹ 40th meeting: p. 252.

⁷² S/66 and S/68, O.R., 1st series, Suppl. No. 2, pp. 52-53, 53-54.

⁷³ 43rd meeting: p. 304.

⁷⁴ 43rd meeting: p. 304.

being absent.⁷⁵ The Polish proposal was rejected by 2 votes in favour, 8 against, with 1 member absent.⁷⁶

The Iranian question remained on the list of matters of which the Security Council is seized.

THE SPANISH QUESTION

INITIAL PROCEEDINGS

By letter dated 9 April 1946,⁷⁷ the representative of Poland, after referring to General Assembly resolution 32 (I) of 9 February 1946, stated:

"Since then a series of developments has made it clear that the activities of the Franco Government have already caused international friction and endangered international peace and security."

...

"In view of the foregoing, the situation in Spain must be considered not as an internal affair of that country but as a concern of all the United Nations. Article 2 of the Charter in paragraph 6 provides that the United Nations Organization shall insure that States not Members of the United Nations act in accordance with the principles of the Organization so far as may be necessary for the maintenance of international peace and security. The situation in Spain makes the application of this provision imperative.

"The Polish delegation, therefore, under Articles 4 and 35 of the Charter, requests the Security Council to place on its agenda the situation arising from the existence and activities of the Franco régime in Spain for consideration and for adoption of such measures as are provided for in the Charter."

At its 32nd meeting on 15 April 1946, the Council included the question in the agenda.⁷⁸

The Council considered the Spanish question at its 34th to 39th and 44th to 49th meetings between 17 April and 26 June 1946.⁷⁹

At the 34th meeting on 17 April 1946, the representative of Poland contended that the situation due to the existence and activities of the Fascist régime in Spain was of the nature referred to in Article 34, and that it was the duty of the Organization to take appropriate steps in accordance with Article 2, paragraph 6. The representative of Poland submitted a draft resolution⁸⁰ that the Security Council call upon Members of the United Nations to sever diplomatic relations with the Franco Government "in accordance with the authority vested in it under Articles 39 and 41 of the Charter".

Decision of 29 April 1946 (39th meeting): Establishment of a sub-committee to conduct inquiries

At the 35th meeting on 18 April 1946, the representative of Australia submitted an amendment to the Polish draft resolution providing for a committee "to make further inquiries" in accordance with Article 34.⁸¹

⁷⁵ 43rd meeting: p. 305.

⁷⁶ 43rd meeting: p. 305.

⁷⁷ S/34, O.R., *Suppl. No. 2, 1st year, 1st series*, p. 55.

⁷⁸ 32nd meeting: p. 122.

⁷⁹ For consideration of the question of domestic jurisdiction in connexion with the Spanish question, see chapter XII, Case 2.

⁸⁰ 34th meeting: p. 167. For text, see chapter XI, Case 1.

⁸¹ 35th meeting: p. 198. For consideration of the relevance of Article 34, see chapter X, Case 8; and for considerations of domestic jurisdiction in connexion with the establishment of the sub-committee, see chapter XII, Case 2.

At the 37th meeting on 25 April, the Australian amendment was replaced by a draft resolution⁸² which was re-submitted in revised form accepted by the representatives of Australia, France and Poland at the 38th meeting on 26 April 1946.⁸³

At the 39th meeting on 29 April, the draft resolution was adopted with further amendments by 10 votes in favour, none against, and 1 abstention.⁸⁴ The resolution, as adopted, read:⁸⁵

"The attention of the Security Council has been drawn to the situation in Spain by a Member of the United Nations acting in accordance with Article 35 of the Charter, and the Security Council has been asked to declare that this situation has led to international friction and endangers international peace and security.

"Therefore the Security Council, keeping in mind the unanimous moral condemnation of the Franco régime in the Security Council, and the resolutions concerning Spain which were adopted at the United Nations Conference on International Organization at San Francisco and at the first General Assembly of the United Nations; and the views expressed by members of the Security Council regarding the Franco régime,

"Hereby resolves: to make further studies in order to determine whether the situation in Spain has led to international friction and does endanger international peace and security, and if it so finds, then to determine what practical measures the United Nations may take.

"To this end, the Security Council appoints a Sub-Committee of five of its members and instructs this Sub-Committee to examine the statements made before the Security Council concerning Spain, to receive further statements and documents, and to conduct such inquiries as it may deem necessary, and to report to the Security Council before the end of May."

REPORT OF THE SUB-COMMITTEE ON THE SPANISH QUESTION

The report of the Sub-Committee on the Spanish question, dated 1 June 1946, included conclusions and recommendations, as well as reservations by two of its members.⁸⁶

After an Introduction and Parts II and III concerning "Relevant Facts" and "Franco Spain and the United Nations", respectively, the Sub-Committee's report in Part IV dealt with "Jurisdiction of the Security Council and its power to take action under Chapter VII of the Charter". It was stated that "in the opinion of the Sub-Committee the Security Council cannot, on the present evidence, make the determination required by Article 39". In Part V on "Other measures available to the United Nations", the Sub-Committee reported that "the present situation in Spain . . . is a situation the continuance of which is in fact likely to endanger the maintenance of international peace and security."⁸⁷

⁸² 37th meeting: p. 216.

⁸³ 38th meeting: p. 239.

⁸⁴ 39th meeting: p. 245.

⁸⁵ 39th meeting: p. 244.

⁸⁶ S/75, O.R., *Special Suppl., 1st year, 1st series*, Rev. ed. On the character of the sub-committee, see chapter V, Case 65.

⁸⁷ O.R., *Special Suppl., 1st year, 1st series*, Rev. ed., pp. 1-10.

The Sub-Committee, in Part VI, "Conclusions and recommendations addressed to the Security Council", stated,⁸⁸ *inter alia*, that "the Security Council is . . . empowered by paragraph 1 of Article 36 to recommend appropriate procedures or methods of adjustment" and it recommended, *inter alia*, that, unless certain conditions were satisfied, the General Assembly pass a resolution recommending that each Member of the United Nations terminate forthwith diplomatic relations with the Franco régime.

Decision of 18 June 1946 (47th meeting): Rejection of draft resolution submitted by the Chairman of the Sub-Committee

At the 45th meeting on 13 June 1946, the Chairman of the Sub-Committee submitted a draft resolution for the adoption of the Sub-Committee's recommendations, subject to one addition.⁸⁹

At the 46th meeting on 17 June, the representative of the United Kingdom submitted an amendment.⁹⁰

At the 47th meeting on 18 June, the United Kingdom amendment was rejected, by 2 votes in favour, 6 against, with 3 abstentions.⁹¹ After separate votes had been taken on each of the three recommendations, the draft resolution as a whole was not adopted. There were 9 votes in favour, 1 against (that of a permanent member) and 1 abstention.⁹²

Decision of 24 June 1946 (48th meeting): Rejection of the draft resolution submitted by the representative of Poland

At the 48th meeting on 24 June 1946, the representative of Poland presented the draft resolution submitted by him at the 34th meeting with the reference to Articles 39 and 41 of the Charter deleted.

At the same meeting, the Polish draft resolution was rejected by 4 votes in favour and 7 against.⁹³

Decision of 26 June 1946 (49th meeting): To keep the situation in Spain under observation

(i) At the 48th meeting on 24 June 1946, the representative of Poland submitted a draft resolution⁹⁴ to "keep the situation in Spain under continuous observation and keep the question on the list of matters . . ."

After consideration of the draft resolution in relation to recommendation by the General Assembly on the question at the next session, a drafting committee composed of the representatives of Australia, Poland and the United Kingdom was appointed to examine the new Polish draft resolution.⁹⁵

(ii) At the 49th meeting on 26 June, the representatives of Australia and the United Kingdom sub-

mitted an amended text,⁹⁶ the representative of Poland dissenting.

At the same meeting, the Security Council upheld⁹⁷ the President's (Mexico) ruling that this text be considered as an amendment to the Polish draft resolution. This amended resolution was not adopted.⁹⁸ There were 9 votes in favour, 2 against (one being that of a permanent member).

(iii) Also at the 49th meeting, the representative of the USSR submitted amended texts.⁹⁹ After an amendment submitted by the representative of the USSR had been rejected, the following resolution was adopted:¹⁰⁰

"Whereas the Security Council on 29 April 1946 appointed a Sub-Committee to investigate the situation in Spain,

"And whereas the investigation of the Sub-Committee has fully confirmed the facts which led to the condemnation of the Franco régime by the Potsdam and San Francisco Conferences, the General Assembly at the first part of its first session, and by the Security Council by resolution of the date mentioned above,

"The Security Council decides to keep the situation in Spain under continuous observation and maintain it upon the list of matters of which it is seized in order that it will be at all times ready to take such measures as may become necessary to maintain international peace and security. Any member of the Security Council may bring the matter up for consideration by the Council at any time."

Decision of 26 June 1946 (49th meeting): Rejection of draft resolution submitted by the representative of Australia

At the 49th meeting on 26 June 1946, the representative of Australia submitted a draft resolution providing that¹⁰¹

"...in the opinion of the Security Council, the carrying of the resolution on the Spanish question, dated 26 June, does not in any way prejudice the rights of the General Assembly under the Charter."

The draft resolution was not adopted. There were 9 votes in favour, 2 against (one being that of a permanent member).¹⁰²

Decision of 4 November 1946 (79th meeting): Removal of the question from the list of matters of which the Council is seized

At the 79th meeting on 4 November 1946, the draft resolution submitted by the representative of Poland, as amended by the addition of a sentence at the end, suggested by the President (United Kingdom) and accepted by the representative of Poland, was adopted unanimously.¹⁰³ The resolution as adopted read:

"The Security Council resolves that the situation in Spain is to be taken off the list of matters of which the Council is seized, and that all records and documents of the case be put at the disposal of the General Assembly.

⁸⁸ O.R., *Special Suppl., 1st year, 1st series*, Rev.ed., pp. 10-11. For consideration of the Report in relation to Chapter VI of the Charter, see chapter X, Case 22; and in relation to Chapter VII of the Charter, see chapter XI, Cases 1 and 16.

⁸⁹ 45th meeting: p. 326. For consideration of this draft resolution in relation to Article 24, see chapter XII, Case 21; in relation to Article 12, see chapter VI, Case 1 (i); and in relation to Chapter VI of the Charter, see chapter X, Case 22.

⁹⁰ 46th meeting: pp. 348-349.

⁹¹ 47th meeting: p. 378.

⁹² 47th meeting: p. 379.

⁹³ 48th meeting: p. 388.

⁹⁴ 48th meeting: p. 389. For text, see chapter X, Case 9; for discussion in relation to Article 12, see chapter VI, Case 1 (ii).

⁹⁵ 48th meeting: p. 400.

⁹⁶ 49th meeting: p. 401. For text, see chapter X, Case 9.

⁹⁷ 49th meeting: p. 413.

⁹⁸ 49th meeting: p. 413.

⁹⁹ 49th meeting: p. 434.

¹⁰⁰ 49th meeting: pp. 441-442.

¹⁰¹ 49th meeting: p. 444.

¹⁰² 49th meeting: p. 446. For discussion, see chapter VI, Case 1 (iii).

¹⁰³ 79th meeting: p. 498. For discussion, see chapter VI, Case 1 (iv).

"The Security Council requests the Secretary-General to notify the General Assembly of this decision."

The question was accordingly removed from the list of matters of which the Security Council is seized.

THE GREEK QUESTION: UKRAINIAN SSR COMMUNICATION DATED 24 AUGUST 1946

INITIAL PROCEEDINGS

By telegram dated 24 August 1946,¹⁰⁴ the Ukrainian SSR brought to the attention of the Security Council, under Article 35 (i), "as being of the nature covered by Article 34 . . . the situation in the Balkans which has resulted from the policy of the Greek Government, and which endangers the maintenance of international peace and security . . ." The principal factor "conducive to the situation in the Balkans, as created by this policy of the present Greek Government" was the "presence of British troops in Greece and the direct intervention of British military representatives in the internal affairs" of Greece. The Council was requested to adopt measures without delay "in order to eliminate this threat to peace".

After discussion at the 54th, 57th, 58th and 59th meetings, the Security Council included the question in the agenda at the 59th meeting on 3 September 1946.¹⁰⁵

The Council considered the question at the 60th to 62nd, and the 64th to 70th meetings, between 4 and 20 September 1946.

Decision of 20 September 1946 (70th meeting): Postponement of vote on draft resolution submitted by the representative of Australia

At the 67th meeting on 16 September 1946, the representative of Australia submitted a draft resolution that the Council pass to the next item on the agenda.¹⁰⁶

At the 70th meeting on 20 September, at the suggestion of the President (USSR) and with the agreement of the representative of Australia, the Security Council decided to vote on the Australian draft resolution after the other draft resolutions directly related to the question under consideration had been voted upon.¹⁰⁷

Decisions of 20 September 1946 (70th meeting): Rejection of draft resolutions submitted respectively by the representatives of the USSR, the Netherlands, the United States and Poland¹⁰⁸

(i) USSR draft resolution

At the 67th meeting on 16 September 1946, the representative of the USSR submitted a draft resolution¹⁰⁹ to establish that "a situation envisaged by Article 34 of the Charter" had been created in Greece; to call upon the Greek Government to take certain

measures; and "to retain on the agenda of the Security Council the question of the menacing situation . . ."

At the 70th meeting on 20 September 1946, the USSR draft resolution was rejected by 2 votes in favour, 9 votes against.¹¹⁰

(ii) Netherlands draft resolution

At the 69th meeting on 18 September 1946, the representative of the Netherlands submitted a draft resolution¹¹¹ to invite the Secretary-General to notify the Governments of Albania, Bulgaria, Greece and Yugoslavia that the Council, "without pronouncing any opinion on the question of responsibility, earnestly hopes that these Governments . . . will do their utmost . . . to stop" the frontier incidents "by giving appropriate instructions to their national authorities and by making sure that these instructions are rigidly enforced".

The Netherlands draft resolution was voted upon at the 70th meeting and was rejected by 6 votes in favour, 3 against and 2 abstentions.¹¹²

(iii) United States draft resolution

At the 70th meeting on 20 September, the representative of the United States submitted a draft resolution¹¹³ under which the Council, acting under Article 34, would establish a commission of three individuals to investigate in the area concerned the facts relating to the incidents along the frontier between Greece on the one hand, and Albania, Bulgaria and Yugoslavia on the other.

The United States draft resolution was voted upon at the same meeting and was not adopted. There were 8 votes in favour, 2 against (1 vote against being that of a permanent member) and 1 abstention.¹¹⁴

(iv) Polish draft resolution

Following the rejection of the USSR, Netherlands and United States draft resolutions at the 70th meeting, the representative of Poland submitted a draft resolution¹¹⁵ to keep the situation under observation and to retain it on the list of matters of which the Council is seized.

At the same meeting the Polish draft resolution was rejected by 2 votes in favour and 9 votes against.¹¹⁶

Following statements at the 70th meeting by the President of the Council (USSR),¹¹⁷ the Secretary-General¹¹⁸ and the representative of France,¹¹⁹ the representative of Australia withdrew his draft resolution.¹²⁰

The question was removed from the list of matters of which the Council is seized.

¹⁰⁴ 70th meeting: pp. 407-409.

¹⁰⁵ 69th meeting: p. 390.

¹⁰⁶ 70th meeting: pp. 409-410.

¹⁰⁷ 70th meeting: p. 396. For text, see chapter X, Case 10.

¹⁰⁸ 70th meeting: p. 412.

¹⁰⁹ 70th meeting: p. 413. For text, see chapter X, Case 10.

¹¹⁰ 70th meeting: p. 417.

¹¹¹ 70th meeting: p. 420.

¹¹² 70th meeting: p. 421.

¹¹³ 70th meeting: p. 422.

¹¹⁴ 70th meeting: p. 422. For discussion preceding the withdrawal of the Australian draft resolution, see chapter II, Case 57.

¹⁰⁴ S/137, O.R., 1st year, 2nd series, Suppl. No. 5, pp. 149-151.

¹⁰⁵ For consideration of inclusion of the question in the agenda, see chapter II, Cases 17 and 28.

¹⁰⁶ 67th meeting: p. 329. For consideration of the Australian draft resolution, see chapter II, Case 57.

¹⁰⁷ 70th meeting: pp. 405-407.

¹⁰⁸ For constitutional considerations advanced in connexion with the draft resolutions, see chapter X, Case 10; in connexion with Article 2 (7), see chapter XII, Case 3.

¹⁰⁹ 67th meeting: pp. 334-335.

THE GREEK FRONTIER INCIDENTS QUESTION

INITIAL PROCEEDINGS

By letter dated 3 December 1946,¹²¹ Greece brought to the attention of the Security Council, under Articles 34 and 35 (1), a "situation which is leading to friction between Greece and her neighbours, by reason of the fact that the latter are lending their support to the violent guerrilla warfare now being waged in northern Greece against public order and the territorial integrity" of Greece.

At the 82nd meeting on 10 December 1946, the Security Council included the question in the agenda.

The Security Council considered the question between 10 December 1946 and 15 September 1947, at the following meetings: 82nd-87th, 100th, 101st, 122nd, 123rd, 126th, 128th-131st, 133rd-137th, 147th, 148th, 150th, 151st, 153rd, 156th, 158th-170th, 174th, 175th, 176th, 177th, 178th, 180th, 183rd, 188th and 202nd.

*Decision of 19 December 1946 (87th meeting): Establishment of a Commission of Investigation*¹²²

In his statement before the Council at the 83rd meeting on 12 December 1946, the representative of Greece requested that the Council take the measures necessary to put an end to the situation which was likely to endanger the maintenance of international peace and security.¹²³ At the 83rd and 84th meetings, the representatives of Yugoslavia,¹²⁴ Albania¹²⁵ and Bulgaria¹²⁶ denied the Greek charges.

At the 85th meeting on 18 December 1946, the representative of the United States submitted a draft resolution¹²⁷ to establish, under Article 34 of the Charter, a commission of investigation. Amendments to the draft resolution were submitted by the representatives of Mexico, Poland and the United Kingdom at the 86th and 87th meetings.

At the 87th meeting on 19 December 1946, the Council voted on the draft resolution, paragraph by paragraph, and on the amendments. The draft resolution, as amended during the vote, was then adopted unanimously.¹²⁸ The resolution read as follows:¹²⁹

"Whereas there have been presented to the Security Council oral and written statements by the Greek, Yugoslav, Albanian and Bulgarian Governments relating to disturbed conditions in northern Greece along the frontier between Greece on the one hand and Albania, Bulgaria and Yugoslavia on the other, which conditions, in the opinion of the Council, should be investigated before the Council attempts to reach any conclusions regarding the issues involved:

The Security Council

Resolves:

"That the Security Council under Article 34 of the Charter establish a Commission of Investigation to ascertain the facts relating to the alleged border violations along the frontier between Greece on the one hand and Albania, Bulgaria and Yugoslavia on the other;

"That the Commission be composed of a representative of each of the members of the Security Council as it will be constituted in 1947;

"That the Commission shall proceed to the area not later than 15 January 1947, and shall submit to the Security Council at the earliest possible date a report of the facts disclosed by its investigation. The Commission shall, if it deems it advisable or if requested by the Security Council, make preliminary reports to the Security Council;

"That the Commission shall have authority to conduct its investigation in northern Greece and in such places in other parts of Greece, in Albania, Bulgaria and Yugoslavia as the Commission considers should be included in its investigation in order to elucidate the causes and nature of the above-mentioned border violations and disturbances;

"That the Commission shall have authority to call upon the Governments, officials and nationals of those countries, as well as such other sources as the Commission deems necessary, for information relevant to its investigation;

"That the Security Council request the Secretary-General to communicate with the appropriate authorities of the countries named above in order to facilitate the Commission's investigation in those countries;

"That each representative on the Commission be entitled to select the personnel necessary to assist him and that, in addition, the Security Council request the Secretary-General to provide such staff and assistance to the Commission as it deems necessary for the prompt and effective fulfilment of its task;

"That a representative of each of the Governments of Greece, Albania, Bulgaria and Yugoslavia be invited to assist in the work of the Commission in a liaison capacity;

"That the Commission be invited to make any proposals that it may deem wise for averting a repetition of border violations and disturbances in these areas."

Decision of 10 February 1947 (101st meeting): Communication to the Commission of Investigation concerning suspension of death sentences

At the 100th and 101st meetings on 10 February 1947, the Council considered a cablegram of 6 February from the Commission¹³⁰ enquiring whether its action in requesting the Greek Government to postpone executions for political offences was covered by its terms of reference laid down by the resolution of 19 December 1946, which, in part, empowered the Commission to call upon nationals of the States concerned who might assist the Commission with information relevant to its investigation.

¹²¹ S/203, S/203/Add.1, O.R., 1st year 2nd series, Suppl. No. 10, pp. 169-190.

¹²² For discussion on investigation under Article 34, see chapter X, Case 11. See also chapter V, Case 1. On the working of the Commission, see: Organization and Procedure of United Nations Commissions, United Nations Commission of Investigation concerning Greek Frontier Incidents (United Nations publications 1949.X.3).

¹²³ 83rd meeting: p. 570.

¹²⁴ 83rd meeting: pp. 570-581.

¹²⁵ 84th meeting: pp. 590-595.

¹²⁶ 84th meeting: pp. 595-599.

¹²⁷ 85th meeting: pp. 630-631.

¹²⁸ 87th meeting: p. 701.

¹²⁹ S/339, 87th meeting: pp. 700-701.

¹³⁰ S/266, O.R., 2nd year, Suppl. No. 4, pp. 51-52.

At the 100th meeting, the representative of the United States submitted a draft resolution¹⁸¹ to advise the Commission that it was not empowered to request postponement of executions of any persons unless the Commission believed that examination of such persons as witnesses would assist the Commission's work. The representatives of the USSR and Poland introduced amendments, which were voted upon and rejected. The United States draft resolution was adopted by 9 votes in favour, none against and 2 abstentions.¹⁸²

The resolution read as follows:¹⁸³

"Whereas the Commission of Investigation established by the Security Council by the resolution adopted on 19 December 1946 has referred to the Council the question of whether the Commission's request to the Greek Government to postpone the execution of persons sentenced to death by that Government for political offences is covered by the terms of reference of such resolution,

"It is resolved that the Security Council request the Secretary-General to advise the Commission of Investigation that it is the sense of the Security Council that the Commission, acting under the resolution adopted by the Council on 19 December 1946, is not empowered to request the appropriate authorities of Greece, Albania, Bulgaria and Yugoslavia to postpone the execution of any persons sentenced to death, unless the Commission has reason to believe that the examination of any such person as a witness would assist the Commission in its work, and makes its request on this ground."

Decisions of 18 April 1947 (131st meeting):

- (i) *Establishment of a Subsidiary Group of the Commission of Investigation;*
- (ii) *Rejection of draft resolution submitted by the representative of the USSR*

At the 123rd meeting on 28 March 1947, the Council resumed its consideration of the Greek question at the request of the representative of the United States.¹⁸⁴ He proposed that the Commission should continue its work along the northern Greek border until the Council had disposed of the Greek case. The representative of the United States stated that, following urgent appeals from the Governments of Greece and Turkey, the Government of the United States had under legislative consideration a temporary emergency programme of economic assistance to those countries, which, in his view, together with effective action by the Security Council in the case of the northern Greek frontiers, would materially advance the cause of peace.¹⁸⁵

At the 126th meeting on 7 April 1947, the representative of the United States submitted a draft resolution¹⁸⁶ to direct the Commission of Investigation to maintain a subsidiary group during its absence from the area in which it had conducted its investigations. The draft resolution was subsequently amended¹⁸⁷ to provide that, pending a new decision of the Council, the Commission should maintain a subsidiary group

in the area concerned to continue to fulfil functions which might be prescribed by the Commission in accordance with its terms of reference.

At the same meeting, the representative of the USSR, contending that the measures taken by the United States in respect to Greece and Turkey were in contradiction with the principles of the Charter, submitted a draft resolution¹⁸⁸ to establish a special commission "to ensure, through proper supervision, that aid which Greece might receive from the outside should be used only in the interests of the Greek people". The representative of Poland submitted an amendment to the USSR draft resolution, adding to its text that, in accordance with General Assembly resolution 48 (I), "such aid cannot be used as a political weapon and shall be distributed without discrimination because of race, creed, or political belief".¹⁸⁹

At the 131st meeting on 18 April 1947, the amended United States draft resolution was adopted by 9 votes in favour, none against and 2 abstentions.¹⁴⁰

The resolution read as follows:¹⁴¹

"The Security Council resolves that, pending a new decision of the Security Council, 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 its terms of reference."

At the same meeting, the Polish amendment to the USSR draft resolution was rejected by 2 votes in favour, none against and 9 abstentions.¹⁴² The USSR draft resolution was rejected by 2 votes in favour, 4 against and 5 abstentions.¹⁴³

Decision of 22 May 1947 (137th meeting): Rejection of draft resolution submitted by the representative of the USSR

At the 133rd meeting on 12 May 1947, the Council resumed consideration of the Greek question at the request of the representative of the USSR¹⁴⁴ who, at the same meeting, submitted a draft resolution¹⁴⁵ to modify the terms of reference of the Subsidiary Group defined by a decision of the Commission of Investigation of 29 April 1947.¹⁴⁶

At the 137th meeting on 22 May, the USSR draft resolution was rejected by 2 votes in favour, 6 against and 3 abstentions.¹⁴⁷

¹⁸⁰ 126th meeting: p. 717; 131st meeting: p. 808. See chapter XII, Case 5.

¹⁸¹ 130th meeting: p. 784; 131st meeting: p. 807.

¹⁸² 131st meeting: p. 800. On the working of the Subsidiary Group, see: Organization and Procedure of United Nations Commissions, the Subsidiary Group of the United Nations Commission of Investigation concerning Greek Frontier Incidents (United Nations publications, 1949.X.4).

¹⁸³ S/330/Corr.1.

¹⁸⁴ 131st meeting: p. 807.

¹⁸⁵ 131st meeting: p. 808.

¹⁸⁶ S/347, O.R., 2nd year, Suppl. No. 11, p. 125.

¹⁸⁷ 133rd meeting: p. 832.

¹⁸⁸ S/337, O.R., 2nd year, Suppl. No. 11, pp. 121-122.

¹⁸⁹ 137th meeting: p. 924. For text and related discussion, see chapter X, Case 12; and chapter V, Case 69. For related discussion regarding Article 25, see chapter XII, Case 25.

¹⁸¹ 100th meeting: p. 176.

¹⁸² 101st meeting: pp. 188-189. See also chapter XII, Case 4, for discussion on the question of domestic jurisdiction.

¹⁸³ 100th meeting: p. 176.

¹⁸⁴ S/309, 123rd meeting: footnote 1, p. 615.

¹⁸⁵ 123rd meeting: pp. 618-622.

¹⁸⁶ 126th meeting: p. 708.

¹⁸⁷ 131st meeting: pp. 796, 799-800.

Decisions of 29 July and 4 August 1947 (170th and 174th meetings):

- (i) *Rejection of draft resolution submitted by the representative of the United States;*
- (ii) *Rejection of draft resolution submitted by the representative of the USSR*

The report of the Commission of Investigation¹⁴⁸ was submitted at the 147th meeting on 27 June 1947. It contained recommendations stated to have been framed in the spirit of Chapter VI and which had been subscribed to by nine members of the Commission, the representatives of Poland and the USSR dissenting.

At the same meeting, the representative of the United States submitted a draft resolution¹⁴⁹ to adopt these recommendations and to establish a commission to exercise its good offices and make investigations in the area. It was revised by amendments submitted by the representatives of Australia, Belgium, Colombia, France and the United Kingdom at the 162nd to 168th meetings, and accepted by the sponsor. As amended,¹⁵⁰ the draft resolution provided that the Council would find that a dispute existed, the continuance of which was likely to endanger the maintenance of international peace and security. The Council, therefore, following the proposals made by the majority of the Commission members, (1) would recommend that the Governments of Albania, Bulgaria, Greece and Yugoslavia establish as soon as possible normal diplomatic relations; and (2) would establish a commission which would use its good offices, by the means mentioned in Article 33, to settle controversies between the Governments concerned and to assist them in the negotiation and conclusion of frontier conventions. The proposed commission would also be empowered to investigate any alleged frontier violations.

At the 153rd meeting on 8 July, the representative of the USSR submitted a draft resolution¹⁵¹ to establish that the Greek authorities were to blame for the frontier incidents which were a result of the internal situation in Greece. The Council, therefore, would recommend that: (1) the Greek Government put an end to frontier incidents on the borders with Yugoslavia, Bulgaria and Albania; (2) normal diplomatic relations be established or restored between Greece and the three States concerned; (3) foreign troops and military personnel be recalled from Greece; and (4) a special commission be established to ensure the use, in the interests of the Greek people, of foreign economic assistance extended to Greece.

At the 170th meeting on 29 July, the amended United States draft resolution was not adopted. There were 9 votes in favour and 2 against (one vote against being that of a permanent member).¹⁵²

At the 174th meeting on 4 August 1947, the USSR draft resolution was rejected by 2 votes in favour and 9 against.¹⁵³

Decision of 6 August 1947 (177th meeting): Rejection of draft resolution submitted by the representative of Poland

At the 174th meeting on 4 August 1947, the representative of Poland submitted a draft resolution¹⁵⁴ to recommend that the Governments of Albania, Bulgaria, Greece and Yugoslavia do their utmost to establish normal good-neighbourly relations, that diplomatic relations be established between Greece and Albania and Bulgaria and be normalized between Greece and Yugoslavia and that the Governments concerned renew old or enter into new bilateral frontier conventions. The Council would also recommend that the four Governments concerned settle the problem of refugees in the spirit of friendly, mutual understanding.

At the 177th meeting on 6 August, the draft resolution was rejected by 2 votes in favour, none against and 9 abstentions.¹⁵⁵

Decisions of 19 August 1947 (188th meeting):

- (i) *Rejection of draft resolution submitted by the representative of Australia;*
- (ii) *Rejection of draft resolution submitted by the representative of the United States*

At the 175th meeting on 5 August 1947, the Council had before it in addition to the report of the Commission of Investigation a letter dated 31 July 1947 from the representative of Greece¹⁵⁶ requesting the Council to take into consideration the earlier Greek communication of 26 June 1947¹⁵⁷ whereby the formal charge had been submitted by the Greek Government "that there existed a threat to the peace, breach of the peace or act of aggression". The representative of Greece indicated that subsequent acts had confirmed "the necessity of enforcement measures under Chapter VII of the Charter".

At the 177th meeting on 6 August 1947, the representative of Australia submitted a draft resolution¹⁵⁸ which was amended at the 188th meeting at the suggestion of the representative of the United States. As amended,¹⁵⁹ it provided that the Security Council would determine that the situation on the northern borders of Greece constituted a threat to peace under Article 39, call upon the parties involved to cease all acts of provocation and direct, in accordance with Article 40, that Greece on the one hand, and Albania, Yugoslavia and Bulgaria on the other hand, should at once enter into direct negotiations.

At the 180th meeting on 12 August 1947, the representative of the United States submitted a draft resolution¹⁶⁰ to determine that support and assistance given by Albania, Bulgaria and Yugoslavia to the guerrillas fighting against the Greek Government constituted a threat to the peace within the meaning of Chapter VII, to call upon the three Governments to

¹⁵⁴ S/464, 174th meeting: pp. 1731-1732.

¹⁵⁵ 177th meeting: p. 1801.

¹⁵⁶ S/451, O.R., 2nd year, Suppl. No. 17, pp. 151-153.

¹⁵⁷ S/389.

¹⁵⁸ S/471, 177th meeting: p. 1808. For text, see chapter XI, Case 3.

¹⁵⁹ S/471/Add.1, 188th meeting: pp. 2093-2094.

¹⁶⁰ S/486, 180th meeting, footnote, pp. 1910-1911. For text, see chapter XI, Case 3.

¹⁴⁸ S/360/Rev.1, O.R., 2nd year, Special Suppl. No. 2.

¹⁴⁹ S/391, 147th meeting: pp. 1124-1126.

¹⁵⁰ 170th meeting: pp. 1602-1611.

¹⁵¹ S/404, 153rd meeting: pp. 1254-1255.

¹⁵² 170th meeting: p. 1612. For related discussion in connexion with Article 34, see chapter X, Cases 13, 14, 15; in connexion with Article 39, see chapter XI, Case 2; in connexion with Article 2 (7), see chapter XII, Case 6.

¹⁵³ 174th meeting: p. 1730.

cease and desist from rendering any further assistance to the guerrillas and to co-operate with Greece in the settlement of their disputes by peaceful means, and to direct the Subsidiary Group to report to the Council on the compliance of Albania, Bulgaria and Yugoslavia.

At the 188th meeting on 19 August 1947, the Australian draft resolution was not adopted. There were 9 votes in favour and 2 against (one vote against being that of a permanent member).¹⁶¹

At the same meeting, the United States draft resolution was not adopted. There were 9 votes in favour and 2 against (one vote against being that of a permanent member).¹⁶²

Decision of 15 September 1947 (202nd meeting): Rejection of draft resolution submitted by the representative of the United States

At the 202nd meeting on 15 September, the representative of the United States submitted a draft resolution¹⁶³ to request the General Assembly to consider the dispute between Greece on the one hand, and Albania, Yugoslavia and Bulgaria on the other, and to make any appropriate recommendations.

At the same meeting, the draft resolution was not adopted. There were 9 votes in favour and 2 against (one vote against being that of a permanent member).¹⁶⁴

Decision of 15 September 1947 (202nd meeting): Removal of the Greek question from the list of matters of which the Council is seized

At the 202nd meeting, the representative of the United States submitted a draft resolution¹⁶⁵ to remove the dispute between Greece on the one hand and Albania, Bulgaria and Yugoslavia on the other, from the list of matters of which the Council is seized, and to instruct the Secretary-General to place all records and documents in the case at the disposal of the General Assembly.

At the same meeting, the draft resolution was adopted by 9 votes in favour and 2 against.¹⁶⁶

The resolution¹⁶⁷ read as follows:

"The Security Council

"(a) Resolves that the dispute between Greece on the one hand, and Albania, Yugoslavia and Bulgaria on the other, be taken off the list of matters of which the Council is seized; and

"(b) Requests that the Secretary-General be instructed to place all records and documents in the case at the disposal of the General Assembly"

The Greek question was accordingly removed from the list of matters of which the Security Council is seized.

¹⁶¹ 188th meeting: p. 2094.

¹⁶² 188th meeting: pp. 2098-2099. For related discussion in connexion with Articles 39 and 40, see chapter XI, Case 3.

¹⁶³ S/552, 202nd meeting: p. 2369. For discussion in connexion with Article 12, see chapter VI, Case 2 (i).

¹⁶⁴ 202nd meeting: pp. 2399-2400.

¹⁶⁵ 202nd meeting: p. 2401.

¹⁶⁶ 202nd meeting: p. 2405.

¹⁶⁷ S/555, 202nd meeting: p. 2401.

THE QUESTION OF THE STATUTE OF THE FREE TERRITORY OF TRIESTE

Letter from the Chairman of the Council of Foreign Ministers to the Secretary-General, received 20 December 1946, concerning the Statute of Trieste¹⁶⁸

INITIAL PROCEEDINGS

By letter dated 12 December 1946, the Chairman of the Council of Foreign Ministers, the Secretary of State of the United States, transmitted the relevant Articles and Annexes of the Draft Peace Treaty with Italy which established a Free Territory of Trieste "whose independence and integrity would be ensured by the Security Council of the United Nations" and stated that the four Foreign Ministers "are desirous that the texts submitted on the terms of the Treaty for approval by the Security Council be decided on by the latter before 15 January as the signing of the Treaty of peace with Italy is to occur at the beginning of February".

At the 89th meeting on 7 January 1947, the Council included the question in the agenda.¹⁶⁹

The Council considered the question at its 89th and 91st meetings on 7 and 10 January 1947.

Decision of 10 January 1947 (91st meeting): Approval of the three Annexes to the Draft Peace Treaty with Italy and acceptance of the responsibilities thereunder

At the 89th meeting, the representative of the United States submitted a draft resolution¹⁷⁰ which, after revision at the 91st meeting, was adopted at that meeting by ten votes in favour, none against, and one abstention.¹⁷¹

The resolution, as adopted, read:¹⁷²

"The Security Council, having received and examined the Annexes to the proposed Peace Treaty with Italy relating to the creation and government of the free Territory of Trieste (including an arrangement for the Free Port), hereby records its approval of the three following documents:

"1. The instrument for the provisional régime of the Free Territory of Trieste;

"2. The permanent Statute for the Free Territory of Trieste;

¹⁶⁸ S/224/Rev.1, O.R., 2nd year, Suppl. No. 1, annex 2.

¹⁶⁹ 89th meeting: p. 4.

¹⁷⁰ 89th meeting: p. 12. For consideration of the powers of the Council in connexion with this decision, see chapter XII, Cases 22 and 26.

¹⁷¹ 91st meeting: p. 61.

¹⁷² 91st meeting p. 60.

These responsibilities concerned the provisional régime and the permanent statute of the Free Territory of Trieste, and the Free Port of Trieste (O.R., 2nd year, Suppl. No. 1, pp. 12-28a). Under the permanent Statute the Security Council's assurance of "the integrity and independence" of the Free Territory included responsibility for ensuring the observance of the Statute and the protection of the basic human rights of the inhabitants, and responsibility for the maintenance of public order and security (annex VI, Article 2). The Governor, as the Council's representative, was to be responsible only to the Security Council (annex VI, Articles 17, 25) and legislative or administrative difficulties were to be referred by him to the Council (annex VI, Articles 19, 20). Under the instrument for the Free Port, disagreements on the appointment of a Director of the Free Port were also to be referred to the Security Council (annex VIII, Article 18).

"3. The instrument for the Free Port of Trieste; and its acceptance of the responsibilities devolving upon it under the same."

THE CORFU CHANNEL QUESTION

INITIAL PROCEEDINGS

By letter dated 10 January 1947,¹⁷³ enclosing copies of an exchange of notes between the United Kingdom and the People's Republic of Albania regarding an incident in the Corfu Channel in which two British warships had been mined on 22 October 1946, the United Kingdom submitted this question as a dispute under Article 35.

At its 95th meeting on 20 January 1947, the Security Council included the question in the agenda.¹⁷⁴

The Security Council considered the question at its 95th, 107th, 109th, 111th, 114th, 120th to 122nd, 125th and 127th meetings between 20 January and 9 April 1947.¹⁷⁵

At the 107th meeting on 18 February 1947, the representative of the United Kingdom requested that the Council, taking into consideration the failure of attempts at settlement through diplomatic correspondence, should recommend under Article 36 a settlement of the dispute by direct negotiation between the two Governments, on the basis of a finding by the Council that an unnotified mine field had been laid in the Corfu Straits by the Albanian Government or with its connivance. He also requested that the Council should retain the dispute on its agenda until both the parties certified that it had been settled to their satisfaction, and that the Council should remind all States that it was incumbent on them to see that their territorial waters were free from mines.¹⁷⁶

At the 109th meeting on 19 February, the representative of Albania stated that the Albanian Government had not laid, or known who had laid, the mines and that the British warships had violated Albanian sovereignty over its territorial waters with a view to provoking incidents.¹⁷⁷

Decision of 27 February 1947 (114th meeting): Appointment of a sub-committee

At the 111th meeting on 24 February 1947, the representative of Australia submitted a draft resolution for the appointment of a sub-committee of three members to make a report on the facts of the case.¹⁷⁸

At the 114th meeting on 27 February, the representative of China suggested, and the representative of Australia accepted,¹⁷⁹ an amendment to the draft resolution.

At the same meeting the draft resolution, as amended, was adopted by eight votes, with three abstentions.¹⁸⁰ The resolution, as adopted, read:

"As a preliminary step in the consideration of the incidents in the Corfu Channel which are the sub-

ject of a dispute between the United Kingdom and Albania,

"The Security Council

"Resolves:

"To appoint a sub-committee of three members to examine all the available evidence concerning the above-mentioned incidents and to make a report to the Security Council, not later than 10 March 1947, on the facts of the case as disclosed by such evidence.

"The sub-committee is empowered to request further information as it deems necessary from the parties to the dispute, and the representatives of the United Kingdom and Albania are requested to give every assistance to the sub-committee in its work."

Decision of 25 March 1947 (122nd meeting): Rejection of draft resolution submitted by the representative of the United Kingdom

At the 120th meeting on 20 March 1947, the Chairman of the sub-committee submitted¹⁸¹ its report.¹⁸²

At the same meeting, the representative of the United Kingdom submitted a draft resolution.¹⁸³ At the 121st and 122nd meetings on 21 and 25 March 1947, the representatives of the United States and France submitted amendments which the representative of the United Kingdom accepted.

The draft resolution as amended provided that the Security Council should find that an "unnotified mine field" had been laid which "could not have been laid without the knowledge of the Albanian authorities"; should recommend that the two Governments "settle the dispute on the basis of the Council's finding" and that either party might apply to the Council for further consideration in the event of failure to settle; and should resolve "to retain this dispute on its agenda until both parties certify that it has been settled to their satisfaction".

At the 122nd meeting on 25 March, the United Kingdom draft resolution, as amended, was not adopted. There were 7 votes in favour, 2 against (1 vote being that of a permanent member), 1 abstention, and 1 member not participating in the vote.¹⁸⁴

Decision of 9 April 1947 (127th meeting): Recommendation that the two Governments refer the dispute to the International Court of Justice

At the 125th meeting on 3 April 1947, the representative of the United Kingdom submitted a draft resolution¹⁸⁵ to recommend that the two Governments refer the dispute to the International Court of Justice.

At the 127th meeting on 9 April 1947, the United Kingdom draft resolution was adopted by 8 votes in favour, none against, with two abstentions and 1 member not participating in the vote.¹⁸⁶ The resolution, as adopted, read:¹⁸⁷

"The Security Council,

"Having considered statements of representatives of the United Kingdom and of Albania concerning a

¹⁷³ S/247, O.R., 2nd year, Suppl. No. 3.

¹⁷⁴ 95th meeting: p. 117.

¹⁷⁵ For observations on the bearing of Article 33, see chapter X, Case 3; and of Article 36 (3), see chapter X, Case 23.

¹⁷⁶ 107th meeting: pp. 306-307.

¹⁷⁷ 109th meeting: pp. 326, 334.

¹⁷⁸ 111th meeting: pp. 364-365.

¹⁷⁹ 114th meeting: p. 418 and p. 422.

¹⁸⁰ 114th meeting: p. 432. For discussion on the character of the sub-committee, see chapter V, Case 66.

¹⁸¹ 120th meeting: p. 544.

¹⁸² S/300, O.R., 2nd year, Suppl. No. 10.

¹⁸³ 120th meeting: p. 567. For text, see chapter X, Case 23.

¹⁸⁴ 122nd meeting: p. 609. For discussion regarding retention on the agenda, see chapter II, Case 58.

¹⁸⁵ 125th meeting: pp. 685-686.

¹⁸⁶ 127th meeting: p. 727.

¹⁸⁷ 127th meeting: pp. 726-727.

dispute between the United Kingdom and Albania, arising out of an incident on 22 October 1946 in the Straits of Corfu, in which two British ships were damaged by mines with resulting loss of life and injury to their crews,

“*Recommends* that the United Kingdom and the Albanian Governments should immediately refer the dispute to the International Court of Justice in accordance with the provisions of the Statute of the Court.”

APPOINTMENT OF A GOVERNOR FOR THE FREE TERRITORY OF TRIESTE

(a) Letter dated 13 June 1947 from the representative of the United Kingdom to the President of the Security Council (document S/374)¹⁸⁸

INITIAL PROCEEDINGS

By letter dated 13 June 1947 addressed to the President of the Security Council the representative of the United Kingdom requested the fixing of a date “during the coming week for the discussion by the Security Council of the question of the appointment of a governor of the Free Territory of Trieste”, in accordance with Article 11, paragraph 7, of the Statute approved by the Council on 10 January 1947.

At the 143rd meeting on 20 June 1947, the Council included the question in the agenda.¹⁸⁹

The Council considered the question in private at its 144th, 155th, 203rd, 223rd, 233rd and 265th meetings between 20 June 1947 and 9 March 1948.

At the 265th meeting on 9 March 1948, the Council agreed to postpone consideration and to take up the question at the request of any member of the Council.¹⁹⁰

The Security Council resumed consideration of the question at its 411th, 412th, 422nd and 424th meetings between 17 February and 10 May 1949.

Decision of 10 May 1949 (424th meeting): Rejection of draft resolution submitted by the representative of the USSR

At the 411th meeting on 17 February 1949, the representative of the USSR submitted a draft resolution to appoint Colonel Fluckiger as Governor of the Free Territory of Trieste.¹⁹¹

At the 424th meeting on 10 May 1949, the draft resolution submitted by the representative of the USSR was rejected, by 2 votes in favour, none against, with 9 abstentions.¹⁹²

THE EGYPTIAN QUESTION

INITIAL PROCEEDINGS

By letter dated 8 July 1947,¹⁹³ Egypt stated that British troops were maintained on Egyptian territory against the will of the people, contrary to the principle of sovereign equality of the Members of the United Nations and the General Assembly resolution 41 (I)

of 14 December 1946. Egypt also complained that the United Kingdom had occupied the Sudan and had endeavoured to impair the unity of the Nile Valley. A dispute had consequently arisen between the two countries, the continuance of which was likely to endanger the maintenance of international peace and security. Attempts at reaching a fair settlement in conformity with Article 33 of the Charter had failed since the United Kingdom had striven to avail itself of the Anglo-Egyptian Treaty of 1936 “that cannot bind Egypt any longer, having outlived its purposes, besides being inconsistent with the Charter”. Consequently, Egypt was bringing the dispute before the Council under Articles 35 and 37 of the Charter, and requested the Council to direct:

1. The total and immediate evacuation of British troops from Egypt, including the Sudan;
2. The termination of the present administrative régime in the Sudan.

At its 159th meeting on 17 July 1947, the Council included the question in the agenda.

The Council considered the Egyptian question at its 175th, 176th, 179th, 182nd, 189th, 193rd, 196th and 198th to 201st meetings between 5 August and 10 September 1947.¹⁹⁴

In his statements to the Council at the 175th and 179th meetings on 5 and 11 August, the representative of Egypt submitted that the actions of the United Kingdom had created a conflict between the Governments of Egypt and the United Kingdom, and a constant state of friction between the population and the occupying forces. With its repercussions beyond the frontiers of Egypt, the prevailing tension between the two countries was a potential threat to peace and security. He held that Egypt had not been a free agent in concluding the Treaty of 1936, which violated the principle of sovereign equality of the Members of the United Nations, and was an obstacle to Egypt's discharge of its obligations under the Charter to cooperate in suppressing aggression. It was a perpetual alliance, and such alliances were precluded by the Charter. In choosing to abide by the obligations of the Charter rather than by the obligations of the Treaty, Egypt was merely living up to her commitment under Article 103 of the Charter. He added that the Council was not called upon to adjudicate on the legal rights of the parties to the Treaty of 1936, nor to pronounce upon the Treaty, but to take account of the “bald political facts” with a view to the maintenance of international peace and security.¹⁹⁵

The representative of the United Kingdom replied at the 176th, 179th and 182nd meetings on 5, 11 and 13 August, that no proof had been offered that international peace and security had been under any threat, unless the Egyptian Government contemplated creating it. Since both the Egyptian demands concerned the Treaty of 1936, the “one real issue” before the Council was the legal issue of the validity of the Treaty. He observed that the argument based on the doctrine of *rebus sic stantibus* was lacking in legal validity, that the Treaty had been freely concluded, that it was in no way inconsistent with the Charter, that the question of sovereignty was not involved, and that the main-

¹⁸⁸ 143rd meeting: p. 1043.

¹⁸⁹ 143rd meeting: p. 1052.

¹⁹⁰ 265th meeting: p. 65.

¹⁹¹ S/1260, 411th meeting: pp. 14-15.

¹⁹² 424th meeting: p. 10.

¹⁹³ S/410, 159th meeting: pp. 1343-1345.

¹⁹⁴ For statements regarding recourse to Article 33, see chapter X, Case 4.

¹⁹⁵ 175th meeting: pp. 1746, 1753-1757; 179th meeting: pp. 1861-1863, 1866-1868, 1873.

tenance of British troops in Egypt and the Sudan was not contrary to the General Assembly resolution 41 (I) of 14 December 1946. He denied that the United Kingdom had adopted a policy designed to sever the Sudan from Egypt. He concluded that the Charter had provided that international disputes should be settled in accordance with international law and justice and, therefore, the Security Council was not entitled to override treaty rights. Mindful of the principle of *pacta sunt servanda*, the Security Council should find that the Egyptian Government had failed to make a case and should remove the matter from the agenda.¹⁹⁶

The representative of Poland, Syria and USSR expressed the view that a dispute existed within the meaning of the Charter.¹⁹⁷

Decision of 28 August 1947 (198th meeting): Rejection of draft resolution submitted by the representative of Brazil

At the 189th meeting on 20 August 1947, the representative of Brazil submitted a draft resolution¹⁹⁸ to recommend to the parties to resume direct negotiations and, in the event of their failure, to seek a solution by other peaceful means of their own choice; and to keep the Council informed of the progress of the negotiations. The representative of Belgium submitted an amendment¹⁹⁹ to the Brazilian draft resolution to specify among the peaceful means available to the disputants reference of disputes concerning the validity of the Treaty of 1936 to the International Court of Justice.

At the 193rd meeting on 22 August 1947, the representative of Australia proposed an amendment that, in so far as the negotiations affected the future of the Sudan, they should include consultation with the Sudanese.²⁰⁰ The Australian amendment was supported by the representative of the United Kingdom. The representative of Egypt opposed it and stated that the relations between the peoples inhabiting the two parts of the Nile Valley were an internal domestic matter which would not be discussed with the United Kingdom.²⁰¹

The representative of China introduced, at the 189th meeting and at the 198th meeting, two amendments²⁰² to the Brazilian draft resolution, which were both accepted by the representative of Brazil.²⁰³

At the 198th meeting on 28 August, the Belgian amendment was rejected by 4 votes in favour, none against and 6 abstentions.²⁰⁴ The Australian amendment was rejected by 2 votes in favour, none against and 8 abstentions.²⁰⁵ The Brazilian draft resolution, as revised, was rejected by 6 votes in favour, 1 against and 3 abstentions.²⁰⁶

¹⁹⁶ 176th meeting: pp. 1768, 1773-1782, 1784; 179th meeting: pp. 1891-1893, 1896, 1897; 182nd meeting: pp. 1954-1956.

¹⁹⁷ 182nd meeting: p. 1965; 196th meeting: pp. 2237, 2249; 189th meeting: p. 2109.

¹⁹⁸ S/507, 189th meeting: pp. 2108-2109.

¹⁹⁹ S/507/Add.1, 189th meeting: p. 2115. For related discussion in connexion with Article 36 (3), see chapter X, Case 24.

²⁰⁰ S/516, 193rd meeting: p. 2169.

²⁰¹ 197th meeting: pp. 2247, 2254.

²⁰² S/507/Add.1, 189th meeting: p. 2112; 198th meeting: p. 2301.

²⁰³ 196th meeting: p. 2234; 198th meeting: p. 2301.

²⁰⁴ 198th meeting: pp. 2302-2303.

²⁰⁵ 198th meeting: p. 2303.

²⁰⁶ 198th meeting: pp. 2304-2305.

Decision of 29 August 1947 (200th meeting): Rejection of draft resolution submitted by the representative of Colombia

At the 198th meeting on 28 August 1947, the representative of Colombia submitted a draft resolution to call for the resumption of direct negotiations, to define the objectives of the negotiations and to provide for the Council to be kept informed of their progress.²⁰⁷

At the 200th meeting on 29 August, the Colombian draft resolution was voted on in parts and rejected.²⁰⁸

Decision of 10 September 1947 (201st meeting): Rejection of draft resolution submitted by the representative of China

At the 201st meeting on 10 September 1947, the representative of China submitted a draft resolution to recommend the resumption of negotiations and the submission of a report to the Council in the first instance not later than 1 January 1948.²⁰⁹

At the same meeting, the Chinese draft resolution was rejected by 2 votes in favour, none against, 8 abstentions and 1 member not participating in the vote.²¹⁰

The Egyptian question was retained on the list of matters of which the Security Council is seized.²¹¹

THE INDONESIAN QUESTION (II)

INITIAL PROCEEDINGS

By letter dated 30 July 1947,²¹² Australia drew the attention of the Security Council to the hostilities in progress in Java and Sumatra between armed forces of the Netherlands and of the Republic of Indonesia, which in its view constituted a breach of the peace under Article 39. Australia proposed, as a provisional measure under Article 40, that the Council call upon the two Governments, without prejudice to their respective rights, claims or positions, to cease hostilities forthwith and to commence arbitration in accordance with Article XVII of the Linggadjati Agreement which the two Governments had signed on 25 March 1947.

By letter dated 30 July 1947,²¹³ India drew the Council's attention to the Indonesian situation under Article 35, and requested the Council to take the necessary measures provided by the Charter to put an end to the situation.

At its 171st meeting on 31 July 1947, the Council included the question on its agenda.²¹⁴

The Council considered the Indonesian question (II) at 69 meetings held between 31 July and 13 December 1949: 171st, 172nd, 173rd, 178th, 181st, 184th, 185th, 187th, 192nd-195th, 206th-211th, 213th-219th, 222nd, 224th-225th, 247th-249th, 251st-252nd, 256th, 259th, 316th, 322nd-323rd, 326th, 328th-329th, 341st-342nd,

²⁰⁷ S/530, 198th meeting: p. 2305.

²⁰⁸ 200th meeting: pp. 2338-2340.

²⁰⁹ S/547, 201st meeting: p. 2344.

²¹⁰ 201st meeting: p. 2362.

²¹¹ 201st meeting: p. 2363. For discussion regarding retention on the agenda, see chapter II, Case 59.

²¹² S/449, O.R., 2nd year, Suppl. No. 16, annex 40.

²¹³ S/447, O.R., 2nd year, Suppl. No. 16, annex 41.

²¹⁴ 171st meeting: p. 1617. On inclusion in the agenda, see chapter II, Cases 20 and 31.

387th-393rd, 395th-398th, 400th-406th, 416th-421st, 455th-456th meetings.²¹⁵

The representative of the Netherlands, in his statement to the Council at its 171st meeting,²¹⁶ maintained that the Council lacked competence to deal with the situation in Indonesia. He contended that what was going on in Indonesia was a "police action". Article 2 (1) indicated that the Charter was designed to operate between sovereign States, and it could not be contended that the Indonesian Republic had full sovereignty. Furthermore, the matter was one essentially within the domestic jurisdiction of the Netherlands and thus, under Article 2 (7), excluded from the Council's competence. Even assuming for the sake of argument that the Charter was applicable, he maintained that there was no threat to international peace and security, much less a breach of the peace or an act of aggression such as would have to exist if Chapter VII were to be applied.

At the same meeting, the representative of Australia stated²¹⁷ that, when hostilities broke out, his Government had immediately taken action, in consultation with other Members, to persuade the belligerents to cease hostilities and to seek agreement by the peaceful means which Members were bound, under Article 33, to use in the first instance. Since hostilities were nevertheless continuing, the situation had been drawn to the Council's attention for its urgent consideration under Article 39, and he hoped the Council would not attempt to reach any decision with regard to the merits of the case but would confine its deliberations to deciding on a course of action to bring about a cessation of hostilities. He stated that his Government's interests were especially affected by the dispute, which was a situation of international concern with far-reaching repercussions affecting the well-being and stability of the whole area. Since it was well established that hostilities were in progress, there was no occasion for the Council to undertake an investigation of the facts under Article 34. Further, he emphasized that the hostilities represented not merely a "police action" but an armed conflict between two States.

The representative of India* explained²¹⁸ that his Government had asked for consideration under Chapter VI because it felt that, not being a member of the Council, it was not entitled to invoke Chapter VII.

Decision of 1 August 1947 (173rd meeting): Calling upon the parties to cease hostilities forthwith and to settle their disputes by arbitration or by other peaceful means

At the 171st meeting on 31 July 1947, the representative of Australia submitted a draft resolution,²¹⁹ which was revised at the 171st and 172nd meetings at the suggestion of the representatives of China²²⁰ and the United States,²²¹ to call upon the parties to cease

hostilities forthwith and to settle their disputes by arbitration or other peaceful means in accordance with Article XVII of the Lingradjati Agreement.

The Council also had before it a USSR amendment²²² to call for the withdrawal of the forces of both parties to the positions they occupied before the beginning of military operations, a French amendment²²³ to specify that the Council action would not in any way decide the juridical questions concerning the competence of the Council, and a Polish amendment²²⁴ to call upon the parties to keep the Council informed of the progress of the settlement.

At the 173rd meeting, the Council voted on the revised draft resolution and the amendments to it. The French and USSR amendments were rejected, and the Polish amendment was adopted. The draft resolution was adopted in a paragraph by paragraph vote.²²⁵ The resolution read as follows:²²⁶

"The Security Council,

"Noting with concern the hostilities in progress between the armed forces of the Netherlands and the Republic of Indonesia,

"Calls upon the parties:

"(a) To cease hostilities forthwith, and

"(b) To settle their disputes by arbitration or by other peaceful means and keep the Security Council informed about the progress of the settlement."

Decision of 25 August 1947 (194th meeting): Establishment of the Consular Commission at Batavia²²⁷

At the 181st meeting on 12 August 1947, the representative of Australia suggested that, since there were conflicting reports regarding the situation in Indonesia and the observance of the cease-fire orders, an agency of the Council should be set up to observe and help stabilize the situation.²²⁸

At the 193rd meeting on 22 August, taking into account certain suggestions made by the representatives of the Netherlands and the Republic of Indonesia, the representatives of Australia and China submitted a joint draft resolution²²⁹ to request the Governments members of the Council that had career consular representatives in Batavia to ask them to prepare reports jointly for the Council.

The USSR representative submitted an amendment²³⁰ to delete the provisions regarding the consular investigation and to establish a commission composed of the States members of the Council to supervise the implementation of the decision of 1 August.

At the 194th meeting on 25 August, the USSR amendment was rejected, and the joint draft resolution was adopted by 7 votes in favour, none against and 4 abstentions.²³¹ The resolution read as follows:²³²

²¹⁵ 172nd meeting: p. 1665.

²¹⁶ 173rd meeting: p. 1678.

²¹⁷ 173rd meeting: p. 1710.

²¹⁸ 173rd meeting: pp. 1700-1703, 1710.

²¹⁹ S/459, 178th meeting: p. 1839, n. 1.

²²⁰ On the working of the Commission, see: "Organization and Procedure of United Nations Commissions: IV, The Security Council Consular Commission at Batavia" (United Nations publications 1949.X.6). See also chapter V, Case 4.

²²¹ 181st meeting: pp. 1917-1918.

²²² S/513, 193rd meeting: pp. 2173-2174.

²²³ 194th meeting: p. 2197.

²²⁴ 194th meeting: pp. 2199-2200. For discussion on the claim of domestic jurisdiction, see chapter XII, Case 8.

²²⁵ S/525.

²²⁶ At 10 meetings of the Council, while the Indonesian question (II) was not included in the agenda, references were made to matters concerning the question: 186th, 201st, 212th, 229th, 288th, 410th, 422nd, 431st, 454th, and 517th meetings.

²¹⁹ 171st meeting: pp. 1639-1648.

²¹⁷ 171st meeting: pp. 1616-1617, 1622-1627.

²¹⁸ 171st meeting: p. 1620.

²¹⁹ S/454, 171st meeting: p. 1626. For discussion in relation to Article 39, see chapter XI, Case 4; and on the claim of domestic jurisdiction, see chapter XII, Case 7.

²²⁰ 171st meeting: p. 1633.

²²¹ 172nd meeting: p. 1648.

"Whereas the Security Council on 1 August 1947 called upon the Netherlands and the Republic of Indonesia to cease hostilities forthwith,

"And whereas communications have been received from the Governments of the Netherlands and of the Republic of Indonesia advising that orders have been given for the cessation of hostilities,

"And whereas it is desirable that steps should be taken to avoid disputes and friction relating to the observance of the 'cease fire' orders, and to create conditions which will facilitate agreement between the parties,

"The Security Council

"1. Notes with satisfaction the steps taken by the parties to comply with the resolution of 1 August 1947,

"2. Notes with satisfaction the statement by the Netherlands Government issued on 11 August, in which it affirms its intention to organize a sovereign, democratic United States of Indonesia in accordance with the purpose of the Linggadjati Agreement,

"3. Notes 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,

"4. Notes that the Government of the Republic of Indonesia has requested appointment by the Security Council of a commission of observers,

"5. Requests the Governments members of the Council who 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 of 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,

"6. Requests the Governments of the Netherlands and of the Republic of Indonesia to grant to the representatives referred to in paragraph 5 all facilities necessary for the effective fulfilment of their mission,

"7. Resolves to consider the matter further should the situation require."

Decisions of 25 August 1947 (194th meeting):

(i) Rejection of draft resolution submitted by the representative of Australia;

(ii) Establishment of a Committee of Good Offices²³³

At the 193rd meeting on 22 August 1947, the representative of Australia submitted a draft resolution²³⁴ to request the two parties to submit all matters in dispute between them to arbitration by a Commission consisting of one arbitrator selected by the Republic of Indonesia, one by the Netherlands, and one by the Council.

At the 193rd meeting on 22 August, the representative of the United States submitted 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.²³⁵

At the 194th meeting on 25 August, the representative of Poland submitted an amendment to the Australian draft resolution to establish a commission of the Council to act as mediator and arbitrator.²³⁶

At its 194th meeting on 25 August, the Council, after rejecting the Polish amendment, rejected the Australian draft resolution by 3 votes in favour, none against and 8 abstentions.²³⁷

At the same meeting, the Council adopted the United States draft resolution by 8 votes in favour, none against and 3 abstentions.²³⁸ The resolution read as follows:²³⁹

"The Security Council

"Resolves to tender its good offices to the parties in order to assist in the pacific settlement of their dispute in accordance with paragraph (b) of the resolution of the Council of 1 August 1947. The Council expresses its readiness, if the parties so request, to assist in the settlement through a committee of the Council consisting of three members of the Council, each party selecting one, and the third to be designated by the two so selected."

Decisions of 26 August 1947 (195th meeting):

(i) Rejection of draft resolution submitted by the representative of Belgium;

(ii) Calling upon the parties to adhere strictly to the Council's recommendation of 1 August 1947

At the 194th meeting on 25 August 1947, the representative of Belgium submitted a draft resolution to request the International Court of Justice for an advisory opinion concerning the Council's competence to deal with the Indonesian question.²⁴⁰

At the 195th meeting on 26 August, the representative of Poland introduced a draft resolution to remind the parties of the Council's resolution of 1 August 1947.²⁴¹

At the 195th meeting on 26 August, the Belgian draft resolution was rejected by 4 votes in favour, one against, and 6 abstentions.²⁴² The Polish draft resolution was adopted at the same meeting by 10 votes in favour, none against and 1 abstention.²⁴³ The resolution read as follows:²⁴⁴

"The Security Council,

"Taking into consideration that military operations are being continued on the territory of the Indonesian Republic:

"1. Reminds the Government of the Netherlands and the Government of the Indonesian Republic of its resolution of 1 August 1947, concerning the 'cease-fire order' and peaceful settlement of their dispute;

²³⁵ S/514, 193rd meeting: p. 2179.

²³⁶ 194th meeting: pp. 2203-2204.

²³⁷ 194th meeting: p. 2209.

²³⁸ 194th meeting: p. 2209.

²³⁹ S/525.

²⁴⁰ S/517, 194th meeting: p. 2193. For text and discussion, see chapter XII, Case 9, and chapter VI, Case 27.

²⁴¹ S/521, 195th meeting: pp. 2224-2225.

²⁴² 195th meeting: p. 2224.

²⁴³ 195th meeting: p. 2232.

²⁴⁴ S/525.

²³³ On the working of the Committee of Good Offices, see: "Organization and Procedure of United Nations Commissions: V. The Security Council Committee of Good Offices on the Indonesian Question." (United Nations publications, 1949.X.7.) See also chapter V, Case 3.

²³⁴ S/512, 193rd meeting: p. 2174.

"2. Calls upon the Government of the Netherlands and the Government of the Indonesian Republic to adhere strictly to the recommendation of the Security Council of 1 August 1947."

Decision of 3 October 1947 (207th meeting): Requesting the Committee of Good Offices to proceed to exercise its functions with the utmost dispatch

Following reports from the parties that clashes were still occurring between their respective armed forces, the Council resumed consideration of the Indonesian question at its 206th meeting on 1 October 1947.

At its 207th meeting on 3 October, the representative of Australia submitted a draft resolution which was adopted at the same meeting by 9 votes in favour, none against and 2 abstentions.²⁴⁵ The resolution read as follows:

"The Security Council resolves:

"That the Secretary-General be requested to act as convenor of the Committee of Three and arrange for the organization of its work; and

"That the Committee of Three be requested to proceed to exercise its functions with the utmost dispatch."

Decisions of 31 October 1947 (217th meeting): Rejection of draft resolutions submitted by the representatives of Australia and the USSR

The Consular Commission, established under the Council's decision of 25 August 1947, submitted two interim reports, dated 22 September and 13 October 1947²⁴⁶ and later a full report, dated 14 October 1947.²⁴⁷ Between 3 October and 1 November 1947, the Council discussed the situation in Indonesia, in the light of the Consular Commission's reports.

At the 207th meeting on 3 October, the representative of the USSR submitted a draft resolution²⁴⁸ to consider it necessary that the troops of both sides should be immediately withdrawn to the positions they occupied before the beginning of military operations.

At the 210th meeting on 11 October, the representative of Australia submitted a draft resolution,²⁴⁹ which was subsequently revised,²⁵⁰ to call upon the parties to withdraw their respective forces at least 25 kilometres behind the positions held on 1 August 1947.

At the 217th meeting on 31 October, the USSR draft resolution was rejected by 4 votes in favour, 4 against and 3 abstentions.²⁵¹

At the same meeting, the Australian draft resolution was rejected by 5 votes in favour, 1 against and 5 abstentions.²⁵²

Decisions of 1 November 1947 (219th meeting): (i) Interpreting the resolution of 1 August 1947 and requesting the Committee of Good Offices to assist the

parties to implement its terms; (ii) Rejection of draft resolution submitted by the representative of Poland

At its 218th meeting on 1 November, the Council had before it a draft resolution prepared by a sub-committee of the Council which had been set up to consider a United States draft proposal and amendments submitted thereto by Australia, Belgium and China.²⁵³

At its 219th meeting on 1 November, the draft resolution was adopted by 7 votes in favour, 1 against and 3 abstentions.²⁵⁴ The resolution read as follows:²⁵⁵

"The Security Council,

"Having received and taken note of the report of the Consular Commission dated 14 October 1947, indicating that the Council's resolution of 1 August 1947 relating to the cessation of hostilities has not been fully effective;

"Having taken note that according to the Report no attempt was made by either side to come to an agreement with the other about the means of giving effect to that resolution;

"Calls upon the parties concerned forthwith to consult with each other, either directly or through the Committee of Good Offices, as to the means to be employed in order to give effect to the cease-fire resolution, and, pending agreement, to cease any activities or incitement to activities which contravene that resolution, and to take appropriate measures for safeguarding life and property;

"Requests 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;

"Requests the Consular Commission, together with its military assistants, to make its services available to the Committee of Good Offices;

"Advises the parties concerned, the Committee of Good Offices, and the Consular Commission that its resolution of 1 August should be interpreted as meaning that the use of the armed forces of either party by hostile action to extend its control over territory not occupied by it on 4 August 1947, is inconsistent with the Council resolution of 1 August 1947; and

"Invites the parties, should it appear that some withdrawals of armed forces be necessary, to conclude between them as soon as possible the agreements referred to in its resolution of 25 August 1947."

At the same meeting, the Council also voted on a draft resolution,²⁵⁶ submitted by the representative of Poland at the 215th meeting, to call upon the Netherlands to withdraw its forces and administration from the territory of the Indonesian Republic and to call the attention of the Netherlands to the fact that its failure to comply with the Council's measures would create a situation which might lead to the application of enforcement measures. It was rejected by 2 votes in favour, 4 against and 5 abstentions.

²⁴⁵ S/574, 207th meeting: p. 2503.

²⁴⁶ S/573, 205th meeting: p. 2427; S/581, 211th meeting: pp. 2570-2571.

²⁴⁷ S/586, O.R., 2nd year, Special Suppl. No. 4.

²⁴⁸ S/575, 207th meeting: p. 2491. For discussion in relation to Article 39, see chapter XI, Case 5.

²⁴⁹ S/579, 210th meeting: p. 2555.

²⁵⁰ S/579/Rev.1, 215th meeting: p. 2668.

²⁵¹ 217th meeting: p. 2698.

²⁵² 217th meeting: p. 2700.

²⁵³ S/594, 218th meeting: pp. 2723-2724.

²⁵⁴ 219th meeting: pp. 2749-2750. For discussion in relation to the competence of the Council, see chapter XII, Case 10.

²⁵⁵ S/597.

²⁵⁶ S/589, 215th meeting: pp. 2661-2662. For discussion in relation to Article 40, see chapter XI, Case 6.

Decision of 19 December 1947 (224th meeting): Statement by the President concerning the composition of the Committee of Good Offices

At the 224th meeting on 19 December 1947, the President (Australia) stated that it was the understanding of the Council that the membership of the Committee of Good Offices should remain unchanged, despite Australia ceasing to be a member of the Council after 31 December of the year.²⁵⁷

Decision of 28 February 1948 (259th meeting): Commending the Committee and maintaining the Council's offer of good offices

At the 247th and 248th meetings on 17 February 1948, the Committee of Good Offices reported on its work leading up to the signature of a truce agreement (the Renville Truce Agreement) between the parties and acceptance by them of a set of political principles forming an agreed basis for the negotiation of a political settlement.

At the 249th meeting on 18 February, the representative of Canada submitted a draft resolution²⁵⁸ to commend the work of the members of the Committee, to maintain the Council's offer of good offices and to request both parties and the Committee to keep the Council directly informed about the progress of the political settlement.

At the 252nd meeting on 21 February, the representative of Colombia submitted an amendment²⁵⁹ to invite the parties to strive towards full and early implementation of the agreed political principles and avail themselves of the Committee's services for the solution of any difference, and to request the Committee to continue to assist the parties to reach a settlement.

At the 259th meeting on 28 February, the Colombian amendment was voted upon in parts and rejected.²⁶⁰ The Canadian draft resolution was adopted by 7 votes in favour, none against and 4 abstentions.²⁶¹ The resolution read as follows:

"The Security Council,

"Having considered the report of the Committee of Good Offices, informing the Council of the steps taken by the Netherlands Government and the Government of the Republic of Indonesia to comply with the Council's resolution of 1 August 1947;

"Notes with satisfaction the signing of the Truce Agreement by both parties and the acceptance by both parties of certain principles as an agreed basis for the conclusion of a political settlement in Indonesia;

"Commends the members of the Committee of Good Offices for the assistance they have given the two parties in their endeavours to settle their dispute by peaceful means;

"Maintains its offer of good offices contained in the resolution of 25 August 1947, and, to this end,

"Requests both parties and the Committee of Good Offices to keep the Council directly informed about the progress of the political settlement in Indonesia."

Decision of 28 February 1948 (259th meeting): Requesting the Committee to report on political developments in Western Java and Madura

At the 252nd and 256th meetings on 21 and 26 February, the representative of the Republic of Indonesia stated that the Netherlands had plans to create new States in West Java, Madura and East Sumatra, without the plebiscite called for in the agreements recently concluded between the parties under the auspices of the Committee of Good Offices.

At the 259th meeting on 28 February, the representative of China submitted a draft resolution²⁶² which was adopted at the same meeting by 8 votes in favour, none against and 3 abstentions.²⁶³ The resolution read as follows:

"The Security Council

"Requests the Committee of Good Offices to pay particular attention to the political developments in Western Java and Madura and to report to the Council thereon at frequent intervals."

Decision of 17 June 1948 (323rd meeting): Request to the Committee for information concerning the suspension of negotiations

During the consideration of the Second Interim Report of the Committee of Good Offices and its reports on the political developments in Western Java and Madura at the 322nd meeting on 17 June, the Council was informed by the representative of Australia* that negotiations in Indonesia had been discontinued for the time being by the Netherlands delegation in view of the publication of the contents of a confidential Australian-United States working paper submitted to it.²⁶⁴ At the 323rd meeting on 17 June, the Council agreed without objection that the President (Syria) should request information from the Committee regarding the suspension of negotiations, forwarding to the Committee at the same time a record of the Council's proceedings concerning this matter.²⁶⁵

Decision of 23 June 1948 (326th meeting): Request to the Committee to continue to help bring about a peaceful settlement

At its 326th meeting on 23 June, the Council, after considering the Committee's Third Interim Report as well as another report concerning the impasse in the negotiations, agreed without objection to the suggestion of the President (Syria) that he communicate the record of the discussion to the Committee and ask it to continue its efforts towards the attainment of a peaceful adjustment between the parties, keeping the Council informed of the progress of events.²⁶⁶

Decision of 1 July 1948 (328th meeting): Rejection of a proposal submitted by the representative of China

At the 328th meeting on 1 July, following a report to the effect that the parties had been unable to find a formula that would enable them to discuss the Australian-United States Working Paper, the unauthorized publication of the contents of which had earlier led to the suspension of negotiations, the

²⁵⁷ 224th meeting: p. 2799.

²⁵⁸ S/678, 249th meeting: pp. 187-88.

²⁵⁹ S/682, 252nd meeting: p. 253.

²⁵⁹ 259th meeting: p. 393/

²⁶⁰ 259th meeting: pp. 392-393.

²⁶² S/689.

²⁶³ 259th meeting: pp. 376-377, 384.

²⁶⁴ 322nd meeting: pp. 23-24.

²⁶⁵ 323rd meeting: pp. 37-49.

²⁶⁶ 326th meeting: p. 35.

representative of China proposed that the Committee be asked to make available to the Council the paper in question.²⁶⁷ At the same meeting, the proposal was rejected by 6 votes in favour, none against, and 5 abstentions.²⁶⁸

Decision of 6 July 1948 (329th meeting): Request to the Committee for information on trade restrictions in Indonesia and on the implementation of the Truce Agreement

On 6 July 1948 the Council received chapters II to VI of the Third Interim Report of the Committee of Good Offices;²⁶⁹ these chapters described the stage reached in the work of the Political, Social and Administrative, Economic and Financial, and Security Committees, and other matters dealt with by the conference of the parties under the auspices of the Committee.

At its 329th meeting on 6 July, after statements from the representatives of the two parties on the allegation that an economic blockade had been imposed on the Indonesian Republic, the representative of China proposed "That the President (Ukrainian SSR) of the Security Council cable to the Committee of Good Offices for an early report on the existence of restrictions on the domestic and international trade of Indonesia, and the reasons for the delay in the implementation of Article 6 of the Truce Agreement".²⁷⁰

At the same meeting, the proposal as stated above was adopted by 9 votes in favour, none against, and 2 abstentions.²⁷¹

Decision of 29 July 1948 (342nd meeting): Calling upon the parties to observe, with the assistance of the Committee, the military and economic articles of the Truce Agreement, and to implement fully and early the agreed political principles

By cablegram dated 23 July 1948,²⁷² the Committee of Good Offices reported that from that date the Republican delegation would participate only in the work relating to the implementation of the Truce Agreement. The Republican delegation had pointed out that there had been a complete standstill in political negotiations during the preceding eight weeks and that the Netherlands delegation had categorically refused to discuss the Australian-United States draft outline of an over-all political settlement, whereas the Republican Government considered that the proposals in that draft outline constituted the only possible means of resolving the deadlock. The Netherlands delegation, on the other hand, had maintained that there was no standstill in the political negotiations.

In response to the Council's decision of 6 July 1948, the Committee submitted, on 24 July, a report²⁷³ on the restrictions on the trade of Indonesia and the reason for delay in the implementation of article 9 of the Truce Agreement.

At the 341st meeting on 29 July 1948, the representative of China submitted a draft resolution²⁷⁴ which was adopted at the next meeting held on the

same day by 9 votes in favour, none against and 2 abstentions.²⁷⁵ The resolution read as follows:

"The Security Council,

"Having considered the Committee of Good Offices' Report on the Federal Conference opened in Bandung on 27 May 1948 (S/842), Third Interim Report (S/848 and S/848/Add.1), Report on Standstill in Political Negotiations (S/918) and Report on Restrictions on Trade in Indonesia (S/919);

"Calls upon the Governments of the Netherlands and the Republic of Indonesia with the assistance of the Council's Committee of Good Offices, to maintain strict observance of both the military and economic articles of the 'Renville' Truce Agreement, and to implement early and fully the Twelve 'Renville' Political Principles and the Six Additional Principles."

Decision of 20 December 1948 (387th meeting): Request to the Committee of Good Offices for further information regarding military operations in Indonesia

On 15 November 1948, the Committee of Good Offices submitted its Fourth Interim Report.²⁷⁶ On 12 and 18 December, the Committee submitted special supplementary reports²⁷⁷ (S/1117 and S/1129). These reports described the Committee's unsuccessful efforts to bring about a resumption of negotiations and the collapse of direct talks between the parties. The Committee expressed doubts that truce enforcement could be maintained at even the unsatisfactory level then existing as the possibility of political agreement became more remote.

By letter dated 19 December 1948,²⁷⁸ the representative of the United States requested that the Council convene in emergency session on 20 December to consider the question further in the light of the military operations which, according to reports received by the United States Government, had commenced in Indonesia on 18 December.

At the 387th meeting on 20 December, the Council decided, on the suggestion of the representative of Syria, to cable the Committee of Good Offices requesting further information regarding military operations in Indonesia.²⁷⁹

Decision of 24 December 1948 (392nd meeting): Calling upon the parties to cease hostilities forthwith and to release immediately political prisoners: rejection of draft resolution submitted by the representative of the USSR

The Committee of Good Offices submitted two reports²⁸⁰ which the Council received on 20 and 22 December. The Committee expressed the view that, in commencing military operations on 19 December, the Netherlands Government had acted in violation of its obligations under the Renville Truce Agreement and

²⁶⁷ 328th meeting: p. 15.

²⁶⁸ 328th meeting: pp. 34-35.

²⁶⁹ S/848/Add.1, O.R., 3rd year, Suppl. June 1948, p. 122.

²⁷⁰ 329th meeting: pp. 28, 30.

²⁷¹ 329th meeting: p. 30.

²⁷² S/918, O.R., 3rd year, Suppl. for July 1948.

²⁷³ S/919, O.R., 3rd year, Suppl. for July 1948, p. 89.

²⁷⁴ S/931, 341st meeting: p. 22.

²⁷⁵ 342nd meeting: pp. 38-39.

²⁷⁶ S/1085 and S/1085/Add.1 O.R., 3rd year, Suppl. for Dec. 1948, pp. 1-117.

²⁷⁷ S/1117 and S/1117/Add.1, O.R., 3rd year, Suppl. for Dec. 1948, pp. 122, 126; S/1129 and S/1129/Add.1, O.R., 3rd year, Suppl. for Dec. 1948, pp. 215-228.

²⁷⁸ S/1128, O.R., Suppl. for Dec. 1948, p. 214.

²⁷⁹ 387th meeting: pp. 3, 8.

²⁸⁰ S/1129 and S/1129/Add.1, O.R., 3rd year, Suppl. for Dec. 1948, pp. 215, 224; S/1138, O.R., 3rd year, Suppl. for Dec. 1948, p. 287. See also S/1144 and S/1146, O.R., 3rd year, Suppl. for Dec. 1948, pp. 295, 297.

that the possibilities of negotiations under the auspices of the Committee had not been exhausted nor even adequately explored.

At the 389th meeting on 22 December, the representatives of Colombia, Syria, and the United States submitted a draft resolution²⁸¹ to call upon the parties to cease hostilities at once and to withdraw their forces to their former positions.

At the 390th meeting on 23 December, the representative of Australia submitted an amendment to the joint draft resolution calling for the release of the President of the Indonesian Republic and other political prisoners arrested since 18 December.²⁸²

At the 392nd meeting on 24 December, the representative of the USSR submitted a draft resolution²⁸³ to condemn the aggression of the Netherlands Government, to require the cessation of the military operations and the withdrawal of Netherlands troops to positions held before the renewed outbreak of hostilities, and to set up a commission representative of the whole Council to supervise the implementation of the resolution and to assist in settling the dispute.

At the same meeting, the joint draft resolution and the amendment to it were voted upon paragraph by paragraph and the resulting text was adopted by 7 votes in favour, none against, with 4 abstentions.²⁸⁴ The USSR draft resolution was rejected by a vote taken in parts.²⁸⁵ The resolution adopted read as follows:

"The Security Council,

"Noting with concern the resumption of hostilities in Indonesia and,

"Having taken note of the reports of the Committee of Good Offices,

"Calls upon the parties:

"(a) To cease hostilities forthwith, and

"(b) Immediately to release the President and other political prisoners arrested since 18 December;

"Instructs the Committee of Good Offices to report to the Security Council fully and urgently by telegraph on the events which have transpired in Indonesia since 12 December 1948, and to observe and report to the Security Council on the compliance with sub-paragraphs (a) and (b) above."

Decision of 24 December 1948 (392nd meeting): Rejection of draft resolution submitted by the representative of Canada

At its 392nd meeting on 24 December, the representative of Canada submitted a draft resolution²⁸⁶ which, as revised at the suggestion of the representative of the United States,²⁸⁷ would instruct the Committee of Good Offices to report in order to enable the Council to decide on the practicable steps it might take to establish peace in Indonesia.

The representative of Syria submitted an amendment²⁸⁸ to instruct the Committee to report on the technical possibility of withdrawing armed forces to pre-hostilities positions, and sponsored an Australian amendment²⁸⁹ to request the Consular Commission to continue to make available the services of its military assistants.

At the same meeting, the two amendments were rejected. The revised draft resolution was rejected by 6 votes in favour, none against and 5 abstentions.²⁹⁰

Decisions of 27 December 1948 (393rd meeting): Rejection of draft resolutions submitted by the representatives of the Ukrainian SSR and USSR

By cablegrams dated 25 and 26 December,²⁹¹ the Committee of Good Offices reported to the Council pursuant to its resolution of 24 December. The reports outlined the chief events since 12 December, summarized the military operations since 19 December, analyzed facts relating to the truce and the general role of the Committee, and set out the texts of letters addressed to the parties concerning the Council's resolution of 24 December.

At the 393rd meeting on 27 December, the representative of the Ukrainian SSR submitted a draft resolution²⁹² to consider it necessary that Netherlands troops should be withdrawn to the positions held by them before the second outbreak of hostilities.

The representative of the USSR, considering that a statement made by the Netherlands representative earlier at the same meeting constituted a direct refusal on the part of his Government to cease hostilities against the Republic, submitted a draft resolution²⁹³ to note that the Netherlands had so far failed to cease military operations against the Indonesian Republic and to order the cessation of military operations within 24 hours.

At the same meeting, the Ukrainian SSR draft resolution was rejected by 5 votes in favour, none against and 6 abstentions.²⁹⁴

The USSR draft resolution was rejected by 4 votes in favour, none against and 7 abstentions.²⁹⁵

Decision of 28 December 1948 (395th meeting): Calling upon the Netherlands to set free forthwith the President of the Republic of Indonesia and all other political prisoners

At the 395th meeting on 28 December, the representative of China submitted a draft resolution²⁹⁶ which was adopted at the same meeting by 8 votes in favour, none against and 3 abstentions.²⁹⁷ The resolution read as follows:²⁹⁸

"The Security Council,

"Noting that the Netherlands Government has not so far released the President of the Republic of

²⁸⁸ 392nd meeting: pp. 52, 55.

²⁸⁹ 392nd meeting: pp. 49, 52, 56.

²⁹⁰ 392nd meeting: pp. 56-57.

²⁹¹ S/1154, S/1156, O.R., 3rd year, Suppl. for Dec. 1948, pp. 305, 307.

²⁹² S/1158, 393rd meeting: p. 6.

²⁹³ S/1159, 393rd meeting: p. 8.

²⁹⁴ 393rd meeting: p. 35.

²⁹⁵ 393rd meeting: p. 35.

²⁹⁶ S/1162, 395th meeting: p. 51.

²⁹⁷ 395th meeting: p. 67.

²⁹⁸ S/1164.

²⁸¹ S/1142, O.R., 3rd year, Suppl. for Dec. 1948, p. 294.

²⁸² S/1145, 390th meeting: pp. 15-16.

²⁸³ S/1148 and Corr.1, 392nd meeting: p. 3.

²⁸⁴ 392nd meeting: pp. 30-38.

²⁸⁵ 392nd meeting: pp. 39-42. For discussion in relation to Article 39, see chapter XI, Case 7; and on the claim of domestic jurisdiction, see chapter XII, Case 11.

²⁸⁶ S/1149, O.R., Suppl. for December 1948, p. 298.

²⁸⁷ 392nd meeting: p. 51.

Indonesia and all other political prisoners, as required by the resolution of 24 December 1948,

"Calls upon the Netherlands Government to set free these political prisoners forthwith and report to the Security Council within 24 hours of the adoption of the present resolution."

Decision of 28 December 1948 (395th meeting): Requesting the Consular Commission to report on the situation in the Republic of Indonesia

At the 395th meeting on 28 December, the representative of Colombia submitted a draft resolution²⁹⁹ to call for a report from the Consular Commission on the withdrawal of troops. In order to overcome the objection that the character of the Committee of Good Offices might be changed if it were assigned such a task, he explained that he had followed the Council's resolution of 25 August 1947 in asking the consular representatives in Batavia to report.

At the same meeting, the Colombian draft resolution, with drafting changes accepted by the Colombian representative, was adopted by 9 votes in favour, none against and 2 abstentions.³⁰⁰ The resolution read as follows:

"The Security Council

Requests the consular representatives in Batavia referred to in paragraph 5 of the resolution adopted on 25 August 1947, at the 194th meeting of the Council, to send as soon as possible, for the information and guidance of the Security Council, a complete report on the situation in the Republic of Indonesia, covering in such report 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."

Decision of 28 January 1949 (406th meeting): Establishing the United Nations Commission for Indonesia and recommending the procedures and terms of a settlement³⁰¹

At its 397th meeting on 7 January 1949, the Council had before it a report from the Committee of Good Offices³⁰² stating neither sub-paragraph (a) nor (b) of the resolution of 24 December had been implemented. It requested the Council to define the respective functions of the Committee and of the Consular Commission under the resolutions of 24 and 28 December, and raised the question whether the continuance of the Committee in the present circumstances would serve any useful purpose. The Council also received a request from the Consular Commission for clarification of its position in relation to the Committee.

By cablegram dated 8 January,³⁰³ the Committee of Good Offices reported that arrangements had been approved by Netherlands authorities for the dispatch of military observers to various areas in Java and Sumatra. On 14 January the Committee of Good Offices forwarded the first report³⁰⁴ of its military observers following their return to the field.

By cablegram dated 23 January 1949,³⁰⁵ the Foreign Minister of India transmitted to the Council a resolu-

tion adopted by the Conference on Indonesia held in New Delhi from 20-23 January and attended by representatives and observers of 17 Members of the United Nations from Africa, Asia and the Pacific region, in addition to representatives and observers of two non-Member Governments.

On 24 January, the Committee of Good Offices forwarded to the Council an analysis³⁰⁶ of the military situation in Indonesia. The report concluded that, to be completely effective, a cessation of hostilities necessarily must be agreed upon by both parties. Since the Republican Government had been prevented from functioning, there was no authority on the Republican side to implement the Security Council resolution. Despite the Netherlands orders to its troops to cease hostilities, such cessation had not been and could not be attained in the prevailing situation.

At the 402nd meeting on 21 January, the representative of Cuba submitted a draft resolution on behalf of the delegations of Cuba, China, Norway and the United States,³⁰⁷ and at the 405th meeting on 27 January, the representative of China, on behalf of the sponsors, introduced certain amendments.³⁰⁸ At the latter meeting, the representative of Canada submitted an amendment, which was accepted by the sponsors.³⁰⁹

At the 406th meeting on 28 January, the representative of the USSR submitted an amendment³¹⁰ to replace the first paragraph of the operative part by a provision that Netherlands troops should immediately be withdrawn to the Renville Truce positions.

At the same meeting on 28 January, the USSR amendment was rejected and the revised joint draft resolution was adopted by a vote in parts.³¹¹ The resolution read as follows:³¹²

"The Security Council,

Recalling its resolutions of 1 August 1947, 25 August 1947, and 1 November 1947, with respect to the Indonesian question;

"Taking note with approval of the reports submitted to the Security Council by its Committee of Good Offices for Indonesia;

"Considering that its resolutions of 24 December 1948 and 28 December 1948 have not been fully carried out;

"Considering that continued occupation of the territory of the Republic of Indonesia by the armed forces of the Netherlands is incompatible with the restoration of good relations between the parties and with the final achievement of a just and lasting settlement of the Indonesian dispute;

"Considering that the establishment and maintenance of law and order throughout Indonesia is a necessary condition to the achievement of the expressed objectives and desires of both parties;

"Noting with satisfaction that the parties continue to adhere to the principles of the Renville Agreement and agree that free and democratic elections should be held throughout Indonesia for the purpose

²⁹⁹ S/1160, 395th meeting: p. 80.

³⁰⁰ 395th meeting: pp. 80, 82.

³⁰¹ Regarding the Commission, see chapter V, Case 5.

³⁰² S/1189, O.R., 4th year, Suppl. for Jan. 1949, p. 6.

³⁰³ S/1193, O.R., 4th year, Suppl. for Jan. 1949, p. 19.

³⁰⁴ S/1212, O.R., 4th year, Suppl. for Jan. 1949, p. 49.

³⁰⁵ S/1222, *Ibid.*, p. 56.

³⁰⁶ S/1223, *Ibid.*, p. 60.

³⁰⁷ S/1219, *Ibid.*, p. 53.

³⁰⁸ S/1230, *Ibid.*, p. 65.

³⁰⁹ S/1232, *Ibid.*, p. 66.

³¹⁰ S/1233, *Ibid.*, p. 66.

³¹¹ 406th meeting: pp. 21-33. For discussion on the competence of the Council, see chapter XII, Case 12.

³¹² S/1234, O.R., 4th year, Suppl. for Feb. 1949.

of establishing a constituent assembly at the earliest practicable date, and further agree that the Security Council should arrange for the observation of such elections by an appropriate agency of the United Nations; and that the representative of the Netherlands has expressed his Government's desire to have such elections held not later than 1 October 1949;

"Noting also with satisfaction that the Government of the Netherlands plans to transfer sovereignty to the United States of Indonesia by 1 January 1950, if possible, and, in any case, during the year 1950;

"Conscious of its primary responsibility for the maintenance of international peace and security, and in order that the rights, claims and position of the parties may not be prejudiced by the use of force;

"1. *Calls upon* the Government of the Netherlands to ensure the immediate discontinuance of all military operations, calls upon the Government of the Republic simultaneously to order its armed adherents to cease guerrilla warfare, and calls upon both parties to co-operate in the restoration of peace and the maintenance of law and order throughout the area affected.

"2. *Calls upon* the Government of the Netherlands to release immediately and unconditionally all political prisoners arrested by it since 17 December 1948 in the Republic of Indonesia; and to facilitate the immediate return of officials of the Government of the Republic of Indonesia to Jogjakarta in order that they may discharge their responsibilities under paragraph 1 above and in order to exercise appropriate functions in full freedom, including administration of the Jogjakarta Area, which shall include the city of Jogjakarta and its immediate environs. The Netherlands authorities shall afford to the Government of the Republic of Indonesia such facilities as may reasonably be required by that Government for its effective function in the Jogjakarta area and for communication and consultation with all persons in Indonesia.

"3. *Recommends* that, in the interest of carrying out the expressed objectives and desires of both parties to establish a federal, independent and sovereign United States of Indonesia at the earliest possible date, negotiations be undertaken as soon as possible by representatives of the Government of the Netherlands and representatives of the Republic of Indonesia with the assistance of the Commission referred to in paragraph 4 below on the basis of the principles set forth in the Linggadjadi and Renville Agreements, and taking advantage of the extent of agreement reached between the parties regarding the proposals submitted to them by the United States representative on the Committee of Good Offices on 10 September 1948; and in particular, on the basis that:

"(a) The establishment of the interim federal government which is to be granted the powers of internal government in Indonesia during the interim period before the transfer of sovereignty shall be the result of the above negotiations and shall take place not later than 15 March 1949;

"(b) The elections which are to be held for the purpose of choosing representatives to an Indonesian constituent assembly should be completed by 1 October, 1949; and

"(c) The transfer of sovereignty over Indonesia by the Government of the Netherlands to the United States of Indonesia should take place at the earliest possible date and in any case not later than 1 July 1950;

"Provided that if no agreement is reached by one month prior to the respective dates referred to in sub-paragraphs (a), (b), and (c) above, the Commission referred to in paragraph 4 (a) below or such other United Nations agency as may be established in accordance with paragraph 4 (c) below, shall immediately report to the Council with its recommendations for a solution of the difficulties.

"4. (a) The Committee of Good Offices shall henceforth be known as the *United Nations Commission for Indonesia*. The Commission shall act as the representative of the Security Council in Indonesia and shall have all of the functions assigned to the Committee of Good Offices by the Security Council since 18 December, and the functions conferred on it by the terms of this resolution. The Commission shall act by majority vote, but its reports and recommendations to the Security Council shall present both majority and minority views if there is a difference of opinion among the members of the Commission.

"(b) The Consular Commission is requested to facilitate the work of the United Nations Commission for Indonesia by providing military observers and other staff and facilities to enable the Commission to carry out its duties under the Council's resolutions of 24 and 28 December 1948 as well as under the present resolution, and shall temporarily suspend other activities.

"(c) The Commission shall assist the parties in the implementation of this resolution, and shall assist the parties in the negotiations to be undertaken under paragraph 3 above and is authorized to make recommendations to them or to the Security Council on matters within its competence. Upon agreement being reached in such negotiations, the Commission shall make recommendations to the Security Council as to the nature, powers, and functions of the United Nations agency which should remain in Indonesia to assist in the implementation of the provisions of such agreement until sovereignty is transferred by the Government of the Netherlands to the United States of Indonesia.

"(d) The Commission shall have authority to consult with representatives of areas in Indonesia other than the Republic, and to invite representatives of such areas to participate in the negotiations referred to in paragraph 3 above.

"(e) The Commission or such other United Nations agency as may be established in accordance with its recommendation under paragraph 4 (c) above is authorized to observe on behalf of the United Nations the elections to be held throughout Indonesia and is further authorized, in respect of the territories of Java, Madura and Sumatra, to make recommendations regarding the conditions necessary (a) to ensure that the elections are free and democratic, and (b) to guarantee freedom of assembly, speech and publication at all times, provided that such guarantee is not construed so as to include the advocacy of violence or reprisals.

“(f) The Commission should assist in achieving the earliest possible restoration of the civil administration of the Republic. To this end it shall, after consultation with the parties, recommend the extent to which, consistent with reasonable requirements of public security and the protection of life and property, areas controlled by the Republic under the Renville Agreement (outside of the Jogjakarta area) should be progressively returned to the administration of the Government of the Republic of Indonesia, and shall supervise such transfers. The recommendations of the Commission may include provision for such economic measures as are required for the proper functioning of the administration and for the economic well-being of the population of the areas involved in such transfers. The Commission shall, after consultation with the parties, recommend which, if any, Netherlands forces shall be retained temporarily in any area (outside of the Jogjakarta area) in order to assist in the maintenance of law and order. If either of the parties fails to accept the recommendations of the Commission mentioned in this paragraph, the Commission shall report immediately to the Security Council with its further recommendations for a solution of the difficulties.

“(g) The Commission shall render periodic reports to the Council, and special reports whenever the Commission deems necessary.

“(h) The Commission shall employ such observers, officers and other persons as it deems necessary.

“5. Requests the Secretary-General to make available to the Commission such staff, funds and other facilities as are required by the Commission for the discharge of its functions.

“6. Calls upon the Governments of the Netherlands and the Republic of Indonesia to co-operate fully in giving effect to the provisions of this resolution.”

Decision of 23 March 1949 (421st meeting): Directive conveying the Council's sense that its Commission should assist the parties in reaching agreement on the implementation of its resolution of 28 January 1949 and on the time and conditions for holding the proposed conference at The Hague

The Council met on 10 March 1949 to consider the Commission's report of 1 March 1949³¹³ concerning the non-compliance of the Netherlands Government with the basic prerequisite for further action under the Council's resolution of 28 January and giving details of a proposal by the Netherlands Government to convene a Round Table Conference on the Indonesian question at The Hague in the very near future.

At the 421st meeting on 23 March, the representative of Canada submitted the text of a draft directive to be transmitted by the President (Cuba) to the Commission.³¹⁴ It was adopted at the same meeting by 8 votes in favour, none against and 3 abstentions.³¹⁵ It read as follows:

“It is the sense of the Security Council that the United Nations Commission for Indonesia, in accordance with the Council's resolution of 28 January

1949, and without prejudicing the rights, claims and positions of the parties, should assist the parties in reaching agreement as to (a) the implementation of the Council's resolution of 28 January, and in particular paragraphs 1 and 2 of the operative part thereof; and (b) the time and conditions for holding the proposed conference at The Hague, to the end that the negotiations contemplated by the resolution of 28 January may be held as soon as possible. It is further the sense of the Council that, if such an agreement is reached, the holding of such a conference and the participation by the United Nations Commission for Indonesia in accordance with its terms of reference, would be consistent with the purposes and objectives of the Council's resolution of 28 January 1949.”

Decisions of 13 December 1949 (456th meeting): Rejection of draft resolutions submitted by the representatives of Canada and the Ukrainian SSR

On 9 May 1949, the Commission reported³¹⁶ that both parties had accepted its invitation to discussions pursuant to the Council's directive of 23 March. The Commission announced on 23 June the results of the discussions. The Netherlands agreed to the restoration of the Republican Government and its return to its capital, and the Republican delegation agreed to make proposals to the Republican Government for a cessation of hostilities and in regard to the time and conditions of the proposed round-table conference at The Hague.

On 4 August, the United Nations Commission for Indonesia submitted its first interim report³¹⁷ setting out the agreements reached between the parties on (1) the restoration of the Republican Government to its capital; (2) the cessation of hostilities and the arrangements to implement the cease-hostilities order; and (3) the time and conditions for The Hague conference.

On 8 November 1949, the Commission for Indonesia submitted a special report on the Round Table Conference held at The Hague from 23 August to 2 November 1949.³¹⁸ The Commission informed the Council that the Conference had been “eminently successful”, and reported that, under the agreements reached, the Netherlands, by 30 December 1949 at the latest, would unconditionally transfer complete sovereignty to the Republic of the United States of Indonesia. The Commission further stated that it “would continue to carry out its functions in accordance with its terms of reference, and would observe in Indonesia the implementation of the agreements reached at the Round Table Conference”.

At its 455th meeting on 12 December 1949, the representative of Canada submitted a draft resolution³¹⁹ to note the successful completion of The Hague Conference and welcome the forthcoming establishment of the Republic of the United States of Indonesia as an independent and sovereign State, to request the Commission to continue to discharge the responsibilities entrusted to it by the Council, and, in particular, to observe and assist in the implementation of the agreements reached at the Conference, and to report thereon to the Council.

³¹⁶ S/1320.

³¹⁷ S/1373, O.R., 4th year, Special Suppl. No. 5.

³¹⁸ S/1417 and Corr.1, O.R., 4th year, Special Suppl. No. 6.

³¹⁹ S/1431, O.R., 4th year, Suppl. for Sep.-Dec. 1949, p. 13.

³¹³ S/1270 and Corr.1, O.R., Suppl. for March 1949, p. 8.

³¹⁴ 421st meeting: p. 5.

³¹⁵ 421st meeting: pp. 25-26.

At the same meeting, the representative of the Ukrainian SSR submitted a draft resolution³²⁰ by which the Council, with a view to regulating the position in Indonesia, would deem it essential that the following measures be taken: (a) to withdraw Netherlands forces to their Renville Truce positions; (b) to demand that the Netherlands release all political prisoners; (c) to propose the establishment of a Commission composed of representatives of States members of the Council, which body should observe the withdrawal of the Netherlands forces and the release of the political prisoners; (d) to instruct the Commission to submit proposals for the settlement of the conflict; and (e) to dissolve the existing Commission for Indonesia.

At the 456th meeting on 13 December, the Canadian draft resolution was put to a vote in parts and rejected. The first part received 9 votes in favour and 2 against (one vote against being that of a permanent member of the Council). The second part received 8 votes in favour, 2 against and 1 abstention (one vote against being that of a permanent member).³²¹

At the same meeting, the Council rejected the Ukrainian SSR draft resolution by 2 votes in favour and 9 against.³²²

On 9 January 1950, the Commission submitted to the Council its second interim report³²³ describing negotiations and activities in relation to the implementation of the cease-hostilities agreement, the release of political prisoners and prisoners of war, questions of administration and supply in Indonesia, and the arrangements for the transfer of sovereignty, which the Commission reported took place on 27 December 1949. The report concluded that the Commission, in virtue of its terms of reference and in accordance with the covering resolution of the Round Table Conference, would observe and assist in the implementation of the agreements reached at The Hague.

On 28 July 1950, the Commission reported³²⁴ that the Royal Netherlands Indonesian Army and the Netherlands Army High Command in Indonesia had been dissolved on 26 July following an agreement reached between the Governments of the Netherlands and the Republic of Indonesia on 15 July.

On 11 October 1950, the Commission submitted a telegraphic report³²⁵ outlining events which had taken place in South Moluccas since the proclamation, on 25 April 1950, of a "South Moluccas Republic" by a group of persons who had seized authority in the islands.

On 28 October 1950, the Commission submitted a telegraphic report³²⁶ informing the Council that the Contact Committee of Netherlands and Indonesian representatives, under the chairmanship of the Commission, had met on 25 October to consider, among other matters, problems connected with the demobilization and repatriation of troops belonging to the former Royal Netherlands Indies Army.

³²⁰ S/1433, 455th meeting: p. 27.

³²¹ 456th meeting: pp. 33-35. See chapter II, Case 61, for President's statement regarding effect on previous decisions.

³²² 456th meeting: p. 35.

³²³ S/1449.

³²⁴ S/1663.

³²⁵ S/1842, O.R., 5th year, Suppl. for Sept.-Dec. 1950, pp. 78-80.

³²⁶ S/1873 and Corr.1, O.R., 5th year, for Sept.-Dec. 1950, pp. 94-95.

At the 517th meeting on 30 October 1950, the President (United States) drew the attention of the Security Council to the reports of the Commission dated 11 and 28 October 1950 and asked whether any member wished to express any views in the Council on the question of the timing of the consideration of the reports. The Council took no position on the question raised by the President, and in the period covered by this *Repertoire* there was no further discussion in the Council on the matter of the Indonesian question.

On 3 April 1951, the Commission submitted to the Security Council a report on its activities since the transfer of sovereignty.³²⁷ In the concluding part of the report, the Commission stated that, since the military problems were now virtually solved, since no other matters had been submitted by the parties and since no items remained on the agenda, it had decided that, while continuing to hold itself at the disposal of the parties, it would adjourn *sine die*.

At the end of the period covered by this *Repertoire*, the Security Council remained seized of the Indonesian question (II).

THE PALESTINE QUESTION

INITIAL PROCEEDINGS

By letter dated 2 December 1947,³²⁸ the Secretary-General transmitted to the President of the Security Council the text of General Assembly resolution 181 (II) of 29 November 1947 concerning "the future government of Palestine" and invited the attention of the Security Council particularly to paragraphs (a), (b) and (c) of the operative part of the resolution.

At its 222nd meeting on 9 December 1947, the Council included the question in the agenda. After discussion, the Council decided to postpone consideration.³²⁹

The Security Council considered the Palestine question at the following meetings: 1947: 222nd; 1948: 243rd, 253rd to 255th, 258th, 260th to 263rd, 265th, 267th, 270th, 271st, 274th, 275th, 277th, 282nd, 283rd, 287th, 289th, 291st to 299th, 301st to 303rd, 305th to 311th, 313th, 314th, 317th, 320th, 329th to 340th, 343rd, 349th, 352nd to 354th, 356th, 358th, 360th, 365th, 367th, 373rd to 382nd, 386th, 394th to 396th; 1949: 413th, 422nd, 433rd to 435th, 437th, 452nd, 453rd; 1950: 502nd, 503rd, 511th, 514th, 517th, 518th, 521st, 522nd, 524th; 1951: 541st, 542nd, 544th to 547th, 549th to 553rd, 555th, 556th, 558th.

At the 243rd meeting on 10 February 1948, the Council agreed that it should take note of the first monthly report of the Palestine Commission³³⁰ and postpone further discussion until it had received the first special report to the Security Council.

Decision of 5 March 1948 (263rd meeting): To call on the permanent members to consult and to report

At its 253rd meeting on 24 February 1948, the Security Council began consideration of the first

³²⁷ S/2087.

³²⁸ S/614, O.R., 2nd year, Suppl. No. 20, p. 172.

³²⁹ For summary of proceedings, see chapter XII, Case 23 (i).

³³⁰ S/663, O.R., 3rd year, Special Suppl. No. 2, pp. 1-10. On the working of the Palestine Commission, see: "Organization and Procedure of United Nations Commissions. The United Nations Palestine Commission." (United Nations publications, 1949.X.8.)

monthly progress report and the first special report³³¹ submitted to it by the Palestine Commission.

At the 254th meeting on the same day, the representative of Colombia submitted a draft resolution³³² providing for consultations among the permanent members of the Council under Article 106.

At the 255th meeting on 25 February, the representative of the United States submitted a draft resolution³³³ regarding the acceptance of the requests by the General Assembly and the establishment of a committee of the five permanent members.

At the 258th meeting on 27 February, an amendment³³⁴ to the United States draft resolution was introduced by the representative of Belgium. At the same meeting, the representative of Colombia withdrew his draft resolution.

After consultations between the representatives of the USSR and the United States, the representative of the United States submitted his draft resolution in modified form at the 263rd meeting on 5 March.³³⁵

At the same meeting, the Belgian amendment was rejected. The United States draft resolution was voted on paragraph by paragraph. Three paragraphs were rejected, having failed to obtain the affirmative votes of seven members. The resulting United States draft resolution was adopted by 8 votes in favour, none against, with 3 abstentions.³³⁶ The resolution³³⁷ read as follows:

"The Security Council,

"Having received resolution 181 (II) of the General Assembly of 29 November 1947 on Palestine, and having received from the United Nations Palestine Commission its first monthly report and its first special report on the problem of security in Palestine;

"Resolves to call on the permanent members of the Council to consult and to inform the Security Council regarding the situation with respect to Palestine and to make, as the result of such consultations, recommendations to it regarding the guidance and instructions which the Council might usefully give to the Palestine Commission with a view of implementing the resolution of the General Assembly. The Security Council requests the permanent members to report to it on the results of their consultations within ten days;

"Appeals to all Governments and peoples particularly in and around Palestine, to take all possible action to prevent or reduce such disorders as are now occurring in Palestine."

At the 270th meeting on 19 March, the representative of the United States reported, on behalf of China, France and the United States, the results of the consultations among the permanent members, and discussion proceeded thereon.

Decisions of 1 April 1948 (277th meeting):

- (i) Calling for a truce in Palestine*
- (ii) Requesting a special session of the General Assembly*

At the 275th meeting on 30 March 1948, the representative of the United States submitted two draft resolutions³³⁸ in pursuance of recommendations presented to the Council as a result of the consultations between the permanent members.

At the 277th meeting on 1 April, the United States draft resolution calling for a truce (S/704), as amended on the suggestion of the representative of the Ukrainian SSR, was adopted unanimously.³³⁹ The resolution³⁴⁰ read as follows:

"The Security Council,

"In the exercise of its primary responsibility for the maintenance of international peace and security,

"Notes the increasing violence and disorder in Palestine and believes that it is of the utmost urgency that an immediate truce be effected in Palestine;

"Calls upon the Jewish Agency for Palestine and the Arab Higher Committee to make representatives available to the Security Council for the purpose of arranging a truce between the Arab and Jewish communities of Palestine; and emphasizes the heavy responsibility which would fall upon any party failing to observe such a truce;

"Calls upon Arab and Jewish armed groups in Palestine to cease acts of violence immediately."

At the same meeting, the United States draft resolution on the convocation of a special session of the General Assembly (S/705) was adopted by 9 votes in favour, none against, with 2 abstentions.³⁴¹ The resolution³⁴² read as follows:

"The Security Council,

"Having received, on 9 December 1947, the resolution of the General Assembly concerning Palestine dated 29 November 1947;

"Having taken note of the United Nations Palestine Commission's First and Second Monthly Progress Reports and First Special Report on the problem of security;

"Having called, on 5 March 1948, on the permanent members of the Council to consult;

"Having taken note of the reports made concerning these consultations,

"Requests the Secretary-General in accordance with Article 20 of the United Nations Charter, to convoke a special session of the General Assembly to consider further the question of the future government of Palestine."

Decision of 17 April 1948 (283rd meeting): Calling for measures to bring about a truce in Palestine

At the 282nd meeting on 15 April 1948, the President (Colombia) informed the Security Council that he had met representatives of the Arab Higher Com-

³³¹ S/676, O.R., 3rd year, Special Suppl. No. 2, pp. 10-19.

³³² S/684, 254th meeting: pp. 292-293. For discussion on the Colombian draft resolution, see chapter XII, Case 29.

³³³ S/685, 255th meeting: pp. 294-295.

³³⁴ S/688, O.R., 3rd year, Suppl. for Jan.-March, 1948, pp. 30-31; 258th meeting: pp. 356-358.

³³⁵ See chapter V, Case 68.

³³⁶ 263rd meeting: pp. 38-43.

³³⁷ S/691, 263rd meeting: p. 43. For discussion in connexion with this resolution, see chapter XII, Case 23 (ii).

³³⁸ S/704, S/705, 275th meeting: pp. 247-248. See chapter XII, Case 23 (iii).

³³⁹ 277th meeting: p. 34.

³⁴⁰ S/714/I, O.R., 3rd year, Suppl. for April 1948, pp. 4-5.

³⁴¹ 277th meeting: pp. 34-35.

³⁴² S/714/II, O.R., 3rd year, Suppl. for April 1948, p. 5.

mittee and of the Jewish Agency for Palestine to discuss the possible terms of a truce, and that he had been unable to bring about agreement between the parties.

Speaking as the representative of Colombia, the President submitted a draft resolution³⁴³ which had been drawn up as a result of informal conversations among the members of the Security Council with a view to bringing about "a standstill in the present conditions in Palestine" during the short period necessary for the General Assembly to consider the matter further.

Amendments were submitted at the 283rd meeting on 16 April by the representatives of the USSR and the United States.

At the same meeting, the United States amendments were adopted unanimously; the USSR amendment and paragraph 4 of the Colombian draft resolution were rejected. The resolution as amended was adopted by 9 votes in favour, none against, with 2 abstentions.³⁴⁴ The resolution³⁴⁵ read as follows:

"Considering the Council's resolution of 1 April 1948 and the conversations held by its President with the representatives of the Jewish Agency for Palestine and the Arab Higher Committee with a view to arranging a truce between Arabs and Jews in Palestine;

"Considering that, as stated in that resolution, it is of the utmost urgency to bring about the immediate cessation of acts of violence in Palestine, and to establish conditions of peace and order in that country;

"Considering that the United Kingdom Government, so long as it remains the Mandatory Power, is responsible for the maintenance of peace and order in Palestine and should continue to take all steps necessary to that end; and that, in so doing, it should receive the co-operation and support of the Security Council in particular as well as of all the Members of the United Nations;

"The Security Council:

"1. Calls upon all persons and organizations in Palestine and especially upon the Arab Higher Committee and the Jewish Agency to take immediately, without prejudice to their rights, claims, or positions, and, as a contribution to the well-being and permanent interest of Palestine, the following measures:

"(a) Cease all activities of a military or paramilitary nature, as well as acts of violence, terrorism and sabotage;

"(b) Refrain from bringing and from assisting and encouraging the entry into Palestine of armed bands and fighting personnel, groups and individuals, whatever their origin;

"(c) Refrain from importing or acquiring or assisting or encouraging the importation or acquisition of weapons and war materials;

"(d) Refrain, pending further consideration of the future government of Palestine by the General Assembly, from any political activity which might

prejudice the rights, claims, or positions of either community;

"(e) Co-operate with the Mandatory authorities for the effective maintenance of law and order and of essential services, particularly those relating to transportation, communications, health, and food and water supplies;

"(f) Refrain from any action which will endanger the safety of the Holy Places in Palestine and from any action which would interfere with access to all shrines and sanctuaries for the purpose of worship by those who have an established right to visit and worship at them.

"2. Requests the United Kingdom Government, for so long as it remains the Mandatory Power, to use its best efforts to bring all those concerned in Palestine to accept the measures set forth under paragraph 1 above and, subject to retaining the freedom of action of its own forces, to supervise the execution of these measures by all those concerned, and to keep the Security Council and the General Assembly currently informed on the situation in Palestine.

"3. Calls upon all Governments and particularly those of the countries neighbouring Palestine to take all possible steps to assist in the implementation of the measures set out under paragraph 1 above, and particularly those referring to the entry into Palestine of armed bands and fighting personnel, groups and individuals and weapons and war materials."

*Decision of 23 April 1948 (287th meeting): Establishing a truce commission*³⁴⁶

At the 287th meeting on 23 April 1948, the Security Council heard statements by the representatives of the Arab, Higher Committee,* the Jewish Agency for Palestine* and the Mandatory Power regarding implementation of the resolution of 17 April 1948.

The representative of the United States, having suggested that it was essential that the Council should receive additional reports regarding the truce from an agency of its own, submitted a draft resolution to establish a truce commission for Palestine.

The draft resolution, with amendments introduced in the course of discussion, was adopted by 8 votes in favour, none against, with 3 abstentions.³⁴⁷ The resolution³⁴⁸ read as follows:

"Referring to its resolution of 17 April 1948, calling upon all parties concerned to comply with specific terms for a truce in Palestine,

"The Security Council

"Establishes a truce commission for Palestine 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. The function of the Commission shall be to assist the Security Council in supervising the implementation by the

³⁴⁶ On the working of the Truce Commission, see: "Organization and Procedure of United Nations Commissions. The Security Council Truce Commission for Palestine." (United Nations publications, 1949.X.2.) See also chapter V, Case 9.

³⁴⁷ 287th meeting: p. 33.

³⁴⁸ S/727, 287th meeting: pp. 32-33.

³⁴³ S/722, G.A.O.R., 3rd session, Suppl. No. 2, p. 83.

³⁴⁴ 283rd meeting: p. 41. (The meeting lasted beyond midnight, and the resolution was adopted on 17 April).

³⁴⁵ S/723, O.R., 3rd year, Suppl. for April 1948, pp. 7-8.

parties of the resolution of the Security Council of 17 April 1948;

"Requests the Commission to report to the President of the Security Council within four days regarding its activities and the development of the situation, and subsequently to keep the Security Council currently informed with respect thereto.

"The Commission, its members, their assistants and its personnel, shall be entitled to travel, separately or together, wherever the Commission deems necessary to carry out its tasks.

"The Secretary-General of the United Nations shall furnish the Commission with such personnel and assistance as it may require, taking into account the special urgency of the situation with respect to Palestine."

Decision of 12 May 1948 (291st meeting): Authorizing the Truce Commission to use discretionary powers for truce supervision

At the 289th meeting on 7 May 1948, the President (France) informed the Security Council that he had received a telegram from the Jewish Agency for Palestine³⁴⁹ alleging that foreign regular forces had invaded the territory of Palestine and appealing for appropriate action by the Council to arrest the invasion in its initial stages. In reply to the President's inquiry, the Security Council Truce Commission for Palestine cabled³⁵⁰ that it had been unable to confirm the information from the Jewish Agency.

At the 291st meeting on 12 May, the President brought to the attention of the Council two messages from the Truce Commission concerning negotiations for a truce in Jerusalem and for its control and supervision. The Commission asked whether it would be possible for the United Nations to send the officers necessary to effect such control, or whether the latter should be ensured by the International Committee of the Red Cross. The Secretary-General stated that it was possible to send control officers to Palestine, but it would have to be quite clear that they were going at the request, and with the full support, of both parties in Palestine. In the course of the discussion it became apparent that, in view of the short time remaining for action until the expiration of the Mandate on 15 May, and in the absence of sufficient information, the initiative rested with the Truce Commission on the spot. Accordingly, the Council authorized the President to advise the Truce Commission that it should explore and adopt such means of assistance as it might require in the performance of its functions.³⁵¹

Decision of 18 May 1948 (295th meeting): To address a questionnaire to the parties

At the 292nd meeting on 15 May 1948, the President (France) informed the Security Council that he had received a communication³⁵² from the Jewish Agency for Palestine charging acts of aggression on the part of Transjordan, and a cablegram³⁵³ from the Government of Egypt stating that Egyptian armed forces had started to enter Palestine, after the British Mandate had ended, to establish security and order there.

At the 293rd meeting on 17 May, the Security Council had before it three further communications regarding the situation in Palestine. A cablegram³⁵⁴ from the League of Arab States declared that the Arab States were compelled to intervene in Palestine for the sole purpose of restoring peace and security and establishing law and order. A cablegram³⁵⁵ from the Provisional Government of Israel transmitted the proclamation establishing the independent State of Israel. A message³⁵⁶ from the King of Transjordan stated that his armed forces were compelled to enter Palestine to protect the Arabs there.

At the same meeting, the representative of the United States submitted a draft resolution to order the immediate cessation of military operations,³⁵⁷ and a questionnaire to be put to the parties concerned.

At the 293rd to 295th meetings on 17 to 18 May, the Security Council considered the text of the questionnaire, and at the 295th meeting on 18 May, the Security Council adopted the questionnaire in an amended form.³⁵⁸

Decision of 22 May 1948 (302nd meeting): Calling upon the parties to issue a cease-fire order³⁵⁹

At the 296th to 299th and 301st to 302nd meetings between 19 and 22 May, the Security Council considered the United States draft resolution.

At the 296th meeting on 19 May, the representative of the United Kingdom introduced an amendment to eliminate the reference to article 39.³⁶⁰

At the 299th meeting on 20 May, the President informed the Security Council that the permanent members of the Council had decided to appoint a Mediator in Palestine³⁶¹ in pursuance of General Assembly resolution 186 (S-2) of 14 May 1948.

At the 301st meeting on 22 May, the representatives of Egypt,* Iraq,* Lebanon,* Syria and the Jewish Agency for Palestine* presented the replies of their Governments to the questionnaire of the Council. The President announced that replies were still awaited from Saudi Arabia and Yemen, while Transjordan had refused to reply. The representative of the Arab Higher Committee* said that he would submit his replies at a later date.

At the 302nd meeting on 22 May, the Security Council adopted the United States draft resolution in an amended form by 8 votes in favour, none against, with 3 abstentions.³⁶² The resolution³⁶³ read as follows:

"The Security Council

"Taking into consideration that previous resolutions of the Security Council in respect to Palestine

³⁴⁹ S/745, O.R., 3rd year, Suppl. for May 1948, pp. 83-88.

³⁵⁰ S/747, O.R., 3rd year, Suppl. for May 1948, pp. 88-89.

³⁵¹ S/748, O.R., 3rd year, Suppl. for May 1948, p. 90.

³⁵² S/749, 293rd meeting: p. 2.

³⁵³ S/753, O.R., 3rd year, Suppl. for May 1948, pp. 90-91.

For the question of domestic jurisdiction in connexion with the questionnaire, see chapter XII, Case 13.

³⁵⁶ For the preceding discussion concerning the applicability of Articles 39 and 40, see chapter XI, Case 9.

³⁵⁷ S/755, 295th meeting: p. 6.

³⁵⁸ 299th meeting: pp. 4-5. On the working of the Mediator and the Acting Mediator, see: "Organization and Procedure of United Nations Commissions. The United Nations Mediator (and Acting Mediator) for Palestine." (United Nations publications, 1950.X.3.)

³⁵⁹ 302nd meeting: p. 66.

³⁶⁰ S/773, O.R., 3rd year, Suppl. for May 1948, p. 97.

³⁴⁹ S/730, O.R., 3rd year, Suppl. for May 1948, pp. 37-38.

³⁵⁰ S/733, O.R., 3rd year, Suppl. for May 1948, p. 40

³⁵¹ 291st meeting: p. 21.

³⁵² S/744, 292nd meeting: p. 2.

³⁵³ S/743, 292nd meeting: p. 3.

have not been complied with and that military operations are taking place in Palestine;

"Calls upon all Governments and authorities, without prejudice to the rights, claims or position of the parties concerned, to abstain from any hostile military action in Palestine and to that end to issue a cease-fire order to their military and para-military forces to become effective within thirty-six hours after midnight New York Standard Time, 22 May 1948;

"Calls upon the Truce Commission and upon all parties concerned to give the highest priority to the negotiation and maintenance of a truce in the City of Jerusalem;

"Directs the Truce Commission established by the Security Council by its resolution of 23 April 1948 to report to the Security Council on the compliance with the two preceding paragraphs of this resolution;

"Calls upon all parties concerned to facilitate by all means in their power the task of the United Nations Mediator appointed in execution of the resolution of the General Assembly of 14 May 1948."

Decision of 24 May 1948 (303rd meeting): Extending the time-limit for cease-fire order

At the 303rd meeting on 24 May, the President (France) drew the attention of the Security Council to a cablegram³⁶⁴ from the Jewish Agency for Palestine to the effect that the Provisional Government of Israel had accepted the resolution of 22 May and issued a cease-fire order to its troops. He also read the replies of the Governments of Iraq, Lebanon and Syria informing the Council of a delay in the receipt of the resolution of 22 May and requesting an extension of the time-limit to enable the Arab Governments to consult.

The Security Council agreed to extend the time-limit of the cease-fire order by 48 hours, to expire on 26 May at noon, New York Standard Time.³⁶⁵

Decisions of 29 May 1948 (310th meeting):

(i) *Rejection of draft resolution submitted by the USSR*

(ii) *Calling for cessation of hostilities for a period of four weeks*³⁶⁶

At the 305th meeting on 26 May 1948, the President (France) informed the Security Council that he had received a communication³⁶⁷ from the Jewish Agency for Palestine conveying the decision of the Provisional Government of Israel to reissue a cease-fire order to its forces if the other side acted likewise. The representative of Egypt* stated that his Government was unable to accept the resolution of 22 May 1948.³⁶⁸ The representative of Iraq* read a communication³⁶⁹ from the League of Arab States to the same effect.

At the 306th meeting on 27 May, the representative of the USSR submitted a draft resolution for the

ordering of the cessation of military operations. The draft resolution was subsequently revised.³⁷⁰ At the same meeting, the representative of the United Kingdom submitted a draft resolution which, as revised at the 310th meeting,³⁷¹ called for a cessation of all acts of armed force for a period of four weeks.

At the 308th meeting on 28 May, the President, as the representative of France, submitted a draft resolution³⁷² for the cessation of hostilities in Jerusalem.

At the 310th meeting on 29 May, the USSR draft resolution was voted on in parts and was rejected.³⁷³ At the same meeting, the Security Council proceeded to vote on the United Kingdom draft resolution paragraph by paragraph. Amendments were proposed in the course of the discussion by Colombia, the United States, France, Canada and Syria, and some, having been accepted, were incorporated in the text. The United Kingdom draft resolution, as finally amended, was adopted.³⁷⁴ The resolution³⁷⁵ read as follows:

"The Security Council,

"Desiring to bring about a cessation of hostilities in Palestine without prejudice to the rights, claims and position of either Arabs or Jews; [8 votes to none, with 3 abstentions],

"Calls upon all Governments and authorities concerned to order a cessation of all acts of armed force for a period of four weeks; [10 votes to none, with 1 abstention],

"Calls upon all Governments and authorities concerned to undertake that they will not introduce fighting personnel into Palestine, Egypt, Iraq, Lebanon, Saudi Arabia, Syria, Transjordan and Yemen during the cease-fire; and

"Calls upon all Governments and authorities concerned, should men of military age be introduced into countries or territories under their control, to undertake not to mobilize or submit them to military training during the cease-fire; [7 votes to none, with 4 abstentions];³⁷⁶

"Calls upon all Governments and authorities concerned to refrain from importing war material into or to Palestine, Egypt, Iraq, Lebanon, Saudi Arabia, Syria, Transjordan and Yemen during the cease-fire; [9 votes to none, with 2 abstentions],

"Urges all Governments and authorities concerned to take every possible precaution for the protection of the Holy Places and of the City of Jerusalem, including access to all shrines and sanctuaries for the purpose of worship by those who have an established right to visit and worship at them; [11 votes to none, with no abstentions],

"Instructs the United Nations Mediator for Palestine in concert with the Truce Commission to supervise the observance of the above provisions, and decides that they shall be provided with a sufficient

³⁷⁰ S/794/Rev.2, O.R., 3rd year, Suppl. for May 1948, pp. 101-102.

³⁷¹ S/795/Rev.2, O.R., 3rd year, Suppl. for May 1948, pp. 102-103.

³⁷² S/798/Rev.2, 308th meeting: p. 40.

³⁷³ 310th meeting: pp. 36-37.

³⁷⁴ 310th meeting pp. 38-63.

³⁷⁵ S/801, O.R., 3rd year, Suppl. for May 1948, pp. 103-104.

³⁷⁶ For the claim of domestic jurisdiction in connexion with the discussion on this paragraph and the preceding one, see chapter XII, Case 14.

³⁶⁴ S/779, O.R., 3rd year, Suppl. for May 1948, p. 98.

³⁶⁵ 303rd meeting: p. 41.

³⁶⁶ For the preceding discussion regarding the applicability of Articles 39 and 40, see chapter XI, Case 10. For the preceding discussion concerning the applicability of Articles 52 and 53, see chapter XII, Case 27.

³⁶⁷ S/789, 305th meeting: pp. 43-44.

³⁶⁸ 305th meeting: pp. 44-46.

³⁶⁹ S/792, 305th meeting: pp. 47-49.

number of military observers; [9 votes to none, with 2 abstentions],

"Instructs the United Nations Mediator to make contact with all parties as soon as the cease-fire is in force with a view to carrying out his functions as determined by the General Assembly; [9 votes to none, with 2 abstentions],

"Calls upon all concerned to give the greatest possible assistance to the United Nations Mediator; [9 votes to none, with 2 abstentions],

"Instructs the United Nations Mediator to make a weekly report to the Security Council during the cease-fire; [9 votes to none, with 2 abstentions],

"Invites the States members of the Arab League and the Jewish and Arab authorities in Palestine to communicate their acceptance of this resolution to the Security Council not later than 6 p.m. New York Standard Time on 1 June 1948; [8 votes to none, with 3 abstentions],

"Decides that if the present resolution is rejected by either party or by both, or if, having been accepted, it is subsequently repudiated or violated, the situation in Palestine will be reconsidered with a view to action under Chapter VII of the Charter. [7 votes to none, with 4 abstentions].

"Calls upon all Governments to take all possible steps to assist in the implementation of this resolution." [8 votes to none, with 3 abstentions].

After the United Kingdom draft resolution had been adopted, the French draft resolution was withdrawn.³⁷⁷

Decision of 2 June 1948 (311th meeting): Authorizing the Mediator to set the effective date for the cease-fire

At the 311th meeting on 2 June 1948, the President (Syria) informed the Security Council that he had received the replies of the parties concerned accepting the terms of the resolution of 29 May 1948. The communication³⁷⁸ of the Provisional Government of Israel stated that a cease-fire order had been issued to the Israeli forces effective on 2 June, 3 a.m. Israeli time, provided the other side acted likewise. The communication³⁷⁹ of the Foreign Minister of Egypt, which contained the reply of the League of Arab States on behalf of all Arab States, expressed readiness to cease fire as soon as the effective date was determined. At the same meeting, the representative of the Arab Higher Committee* stated that, as a member of the League of Arab States, his Committee upheld the statement communicated by the Egyptian Government.

The Council also had before it a message³⁸⁰ from the United Nations Mediator suggesting that the date of the application of the resolution should be set by the Mediator in consultations with the two parties and the Truce Commission.

With 2 abstentions, the Security Council approved the suggestion of the Mediator regarding the setting of the time-limit for the actual cessation of hostilities and agreed that this time-limit should be as short as possible.³⁸¹

Decision of 3 June 1948 (313th meeting): Concerning the authority of the United Nations Mediator

At the 313th meeting on 3 June 1948, the President (Syria) drew the attention of the Security Council to paragraph 3 of General Assembly resolution 186 (S-2) which

"Directs the United Nations Mediator to conform in his activities . . . with such instructions as the General Assembly or the Security Council may issue."

Since the Council had conferred certain powers upon the Mediator in the implementation of its resolution of 29 May 1948, he requested the views of the members as to whether instructions should now be given to the Mediator.

The Council agreed that no instructions should be issued to the Mediator pending examination of his first report, and that the Mediator should have full authority to act within the terms of the resolution and interpret it in a way he deemed correct. Only if that interpretation were challenged should the matter be submitted to the Council for further consideration.³⁸²

Decisions of 15 June 1948 (320th meeting):

(i) *Concerning execution of the truce*

(ii) *Rejection of draft resolution submitted by the USSR*

At the 320th meeting on 15 June 1948, the Council had before it a message³⁸³ from the Mediator suggesting that all communications from interested parties concerning the execution of the cease-fire and truce agreement, which had gone into effect on 11 June 1948, be submitted to the Mediator and that he should exercise discretion in reporting them to the Security Council.

In another communication³⁸⁴ the Mediator requested the Security Council to call on Member and non-Member States to report on the steps taken to implement the resolution of 29 May and to assist the Mediator in his task.

The Council approved the procedure suggested by the Mediator and agreed that this would not preclude the parties from addressing communications directly to the Council. It also agreed to take appropriate action in connexion with the Mediator's request (S/840).³⁸⁵

At the same meeting, the representative of the USSR submitted a draft resolution³⁸⁶ to attach to the Mediator from thirty to fifty military observers to be appointed "by Member States of the Security Council wishing to participate in the designation of such observers, excluding Syria". The President, speaking as the representative of Syria, proposed to delete the words "excluding Syria". The USSR draft resolution was rejected³⁸⁷ by 2 votes in favour, none against, and 9 abstentions.

Decision of 7 July 1948 (330th meeting): Concerning the representative of the State of Israel

At the 330th meeting on 7 July 1948, the President (Ukrainian SSR), in his invitation to representatives

³⁷⁷ 310th meeting: p. 63.

³⁷⁸ S/804, 311th meeting: pp. 2-3.

³⁷⁹ S/810, 311th meeting: pp. 4-6.

³⁸⁰ S/814, 311th meeting: p. 16.

³⁸¹ 311th meeting: pp. 23-24.

³⁸² 313th meeting: pp. 28-29.

³⁸³ S/837, 320th meeting: p. 2.

³⁸⁴ S/840, 320th meeting: p. 3.

³⁸⁵ 320th meeting: pp. 4-6.

³⁸⁶ S/841, 320th meeting: p. 8.

³⁸⁷ 320th meeting: p. 11.

of the interested parties to take their seats at the Security Council table, included also the representative of the State of Israel who had previously been referred to as the representative of the Jewish Agency for Palestine.

The ruling of the President was challenged and submitted to the vote. There were 5 votes in favour of overruling the decision of the President. The President declared his ruling sustained.³⁸⁸

In protest against the decision of the President, the representative of the Arab Higher Committee withdrew from the Council table.³⁸⁹

Decision of 7 July 1948 (331st meeting): Appealing for a prolongation of the truce

At the 330th meeting on 7 July 1948 the Security Council had before it a message³⁹⁰ from the Mediator requesting the Council to appeal to the parties for a prolongation of the truce.

At the same meeting, the representative of the United Kingdom submitted a draft resolution to that effect.³⁹¹

At the 331st meeting on 7 July, the Security Council adopted the United Kingdom draft resolution by 8 votes in favour, none against, with 3 abstentions. The resolution³⁹² read as follows:

"The Security Council,

"Taking into consideration the telegram from the United Nations Mediator dated 5 July 1948,

"Addresses an urgent appeal to the interested parties to accept in principle the prolongation of the truce for such period as may be decided upon in consultation with the Mediator."

Decision of 8 July 1948 (332nd meeting): To request information

At the 332nd meeting on 8 July 1948 the President (Ukrainian SSR) brought to the attention of the Security Council a statement³⁹³ of the Mediator on the replies of the parties to his proposal for the prolongation of the truce. He also informed the Security Council of a communication³⁹⁴ from the Provisional Government of Israel charging resumption of hostilities by Egyptian forces before the expiration of the truce.

The Council agreed that the President should request from the parties concerned and the Mediator immediate information regarding the actual situation in Palestine and in particular their attitude towards the observance and prolongation of the truce.³⁹⁵

Decision of 15 July 1948 (338th meeting): Determining the situation in Palestine a threat to the peace within the meaning of Article 39 and ordering, in pursuance of Article 40, the cessation of military action³⁹⁶

Prior to the 333rd meeting on 13 July 1948, the Security Council received additional information concerning the prolongation of the truce and also the text of an appeal³⁹⁷ by the Mediator on 9 July for an unconditional cease-fire in Palestine for a period of 10 days. This appeal was accepted by the Provisional Government of Israel³⁹⁸ but in the absence of acceptance by the Arab States, the four-week truce expired on 9 July.³⁹⁹

At the same meeting, the Mediator* made a statement in connexion with his report dated 12 July⁴⁰⁰ which contained a review of both the truce effort and the mediation effort during the four-week truce. He concluded by stating that, for the time being, he had exhausted all the powers at his disposal, and that it was up to the Security Council to adopt measures to put an end to the renewal of hostilities in Palestine. He thought that the Security Council might order an immediate cease-fire in Palestine and the demilitarization of Jerusalem and should make clear its determination to apply the provisions of Articles 41 and 42 in case of non-compliance.⁴⁰¹

At the 334th meeting on the same day, the representative of the United States submitted a draft resolution⁴⁰² which determined that the situation in Palestine constituted a threat to peace within the meaning of Article 39 and ordered the governments and authorities concerned, pursuant to Article 40, to desist from further military action and to issue cease-fire orders to their forces to that effect. As a matter of special and urgent necessity, the draft resolution ordered an immediate and unconditional cease-fire in Jerusalem.

The Council considered the United States draft resolution at the 334th to 338th meetings from 13 to 15 July.

At the 338th meeting on 15 July, the Council voted on the United States draft resolution and amendments thereto paragraph by paragraph.

An amendment submitted by Syria to substitute the words "Taking into consideration the report of the United Nations Mediator . . ." for the first paragraph of the United States draft resolution which referred to the acceptance of the prolongation of the truce by the Provisional Government of Israel and its rejection by the Arab States, was rejected by 4 votes in favour, none against, and 7 abstentions.⁴⁰³

A United Kingdom amendment to refer to the Provisional Government of Israel as "the other party" was rejected by 3 votes in favour, 1 against, with 7 abstentions.⁴⁰⁴

An amendment proposed orally by Canada to delete from the third paragraph the time-limit of three days for the parties to issue cease-fire orders was rejected by 5 votes in favour, none against, and 6 abstentions.⁴⁰⁵

³⁸⁸ 330th meeting: pp. 2-9.

³⁸⁹ 330th meeting: p. 10.

³⁹⁰ S/865, O.R., 3rd year, Suppl. for July 1948, pp. 24-25.

³⁹¹ S/867.

³⁹² S/875, 331st meeting: p. 35.

³⁹³ S/873, 332nd meeting: pp. 4-5.

³⁹⁴ S/871, 332nd meeting: p. 2.

³⁹⁵ 332nd meeting: pp. 21-23.

³⁹⁶ For discussion in connexion with this resolution, see chapter XI, Case 11.

³⁹⁷ S/878, O.R., 3rd year, Suppl. for July 1948, pp. 33-34.

³⁹⁸ S/884, O.R., 3rd year, Suppl. for July 1948, pp. 43-44.

³⁹⁹ O.R., 3rd year, Suppl. for July 1948, pp. 31-47.

⁴⁰⁰ S/888, O.R., 3rd year, Suppl. for July 1948, pp. 47-63.

⁴⁰¹ 333rd meeting: pp. 7-8.

⁴⁰² S/890, 334th meeting: pp. 40-41.

⁴⁰³ S/901, 338th meeting: pp. 42-43.

⁴⁰⁴ S/895, 338th meeting: p. 43.

⁴⁰⁵ 338th meeting: pp. 46-47.

An amendment submitted by the USSR to propose to both parties that they withdraw their forces from Jerusalem instead of instructing the Mediator, as the United States draft resolution provided, to bring about demilitarization of that city, was rejected by 2 votes in favour, 1 against, and 8 abstentions.⁴⁰⁶

A Chinese amendment, which was subsequently revised by the representative of the United States and accepted by the representative of China,⁴⁰⁷ to add a paragraph reiterating the appeal to the parties to continue conversations with the Mediator "in a spirit of conciliation and mutual concession", was adopted by 9 votes to none, with 2 abstentions.⁴⁰⁸

Two additional paragraphs suggested by the Secretary-General and dealing with administrative and financial arrangements were adopted by 8 votes in favour, none against, with 3 abstentions.

The amended United States draft resolution as a whole was adopted by 7 votes in favour, 1 against, with 3 abstentions.⁴⁰⁹ The resolution⁴¹⁰ read as follows:

"The Security Council,

"Taking into consideration that the Provisional Government of Israel has indicated its acceptance in principle of a prolongation of the truce in Palestine; that the States members of the Arab League have rejected successive appeals of the United Nations Mediator, and of the Security Council in its resolution of 7 July 1948, for the prolongation of the truce in Palestine; and that there has consequently developed a renewal of hostilities in Palestine; [8 votes to 1, with 2 abstentions],

"Determines that the situation in Palestine constitutes a threat to the peace within the meaning of Article 39 of the Charter; [8 votes to 1, with 2 abstentions],

"Orders the Governments and authorities concerned, pursuant to Article 40 of the Charter of the United Nations, to desist from further military action and to this end to issue cease-fire orders to their military and para-military forces, to take effect at a time to be determined by the Mediator, but in any event not later than three days from the date of the adoption of this resolution; [9 votes to 1, with 1 abstention],

"Declares that failure by any of the Governments or authorities concerned to comply with the preceding paragraph of this resolution would demonstrate the existence of a breach of the peace within the meaning of Article 39 of the Charter requiring immediate consideration by the Security Council with a view to such further action under Chapter VII of the Charter as may be decided upon by the Council; [8 votes to 1, with 2 abstentions],

"Calls upon all Governments and authorities concerned to continue to co-operate with the Mediator with a view to the maintenance of peace in Palestine in conformity with the resolution adopted by the

Security Council on 29 May 1948; [9 votes to none, with 2 abstentions],⁴¹¹

"Orders as a matter of special and urgent necessity an immediate and unconditional cease-fire in the City of Jerusalem to take effect 24 hours from the time of the adoption of this resolution, and instructs the Truce Commission to take any necessary steps to make this cease-fire effective; [11 votes to none, with no abstentions],

"Instructs the Mediator to continue his efforts to bring about the demilitarization of the City of Jerusalem, without prejudice to the future political status of Jerusalem, and to assure the protection of and access to the Holy Places, religious buildings and sites in Palestine; [8 votes to none, with 3 abstentions],

"Instructs the Mediator to supervise the observance of the truce and to establish procedures for examining alleged breaches of the truce since 11 June 1948, authorizes him to deal with breaches so far as it is within his capacity to do so by appropriate local action, and requests him to keep the Security Council currently informed concerning the operation of the truce and when necessary to take appropriate action; [9 votes to none, with 2 abstentions],

"Decides that, subject to further decision by the Security Council or the General Assembly, the truce shall remain in force, in accordance with the present resolution and with that of 29 May 1948, until a peaceful adjustment of the future situation of Palestine is reached; [8 votes to 1, with 2 abstentions],

"Reiterates the appeal to the parties contained in the last paragraph of its resolution of 22 May and urges upon the parties that they continue conversations with the Mediator in a spirit of conciliation and mutual concession in order that all points under dispute may be settled peacefully; [9 votes to none, with 2 abstentions],

"Requests the Secretary-General to provide the Mediator with the necessary staff and facilities to assist in carrying out the functions assigned to him under the resolution of the General Assembly of 14 May, and under this resolution;⁴¹² and

"Requests that the Secretary-General make appropriate arrangements to provide necessary funds to meet the obligations arising from this resolution." [8 votes to none, with 3 abstentions].

Decision of 27 July 1948 (340th meeting): Rejection of draft resolution submitted by the representative of Syria

At the 339th and 340th meetings on 27 July 1948, the Council considered a draft resolution⁴¹³ submitted by the representative of Syria to request the International Court of Justice, "pursuant to Article 96, to give an advisory legal opinion as to the international

⁴⁰⁶ S/896, 338th meeting: pp. 52-53.

⁴⁰⁷ S/897, 338th meeting: p. 60.

⁴⁰⁸ 338th meeting: p. 63.

⁴⁰⁹ 338th meeting: p. 66.

⁴¹⁰ S/902, O.R., 3rd year, Suppl. for July 1948, pp. 76-77.

⁴¹¹ The phrase in the draft resolution "pursuant to Article 40 of the Charter" after "Governments and authorities concerned" was rejected by 6 votes in favour, 1 against and 4 abstentions (338th meeting: p. 50).

⁴¹² For discussion on the authority of the Secretary-General, see chapter XI, Case 19.

⁴¹³ S/894, 334th meeting: pp. 52-53.

status of Palestine after the termination of the Mandate". The representative of Syria accepted a Colombian amendment⁴¹⁴ to specify that the request to the International Court "will not delay or impair the normal process of mediation".

At the 340th meeting on 27 July, the Syrian draft resolution, as amended, was rejected by 6 votes in favour and 1 against, with 4 abstentions.⁴¹⁵

Decision of 2 August 1948 (343rd meeting): Request for information regarding Jewish displaced persons and Arab refugees

At the 343rd meeting on 2 August 1948, the representative of the United Kingdom raised the question of Jewish displaced persons in Europe and Arab refugees in Palestine and adjacent countries and stated that these two aspects of the Palestine problem directly affected the chances of finding an equitable solution for it.⁴¹⁶ At the same meeting, the Council decided, without objection, on the proposal of the President (USSR) to request information from the Mediator and from the Governments concerned regarding the questions raised in the course of the discussion, namely (a) the Jewish displaced persons in Europe, (b) the Arab refugees, (c) possible assistance to both those groups, and (d) the Jews detained in Cyprus.⁴¹⁷

Decision of 13 August 1948 (349th meeting): Request to the Mediator to make all efforts to ensure water supply for Jerusalem

At the 349th meeting on 13 August 1948, following the receipt of a cablegram from the Mediator concerning the destruction of the pumping station at Latrun,⁴¹⁸ the President (USSR) proposed that the Council authorize him to send a telegram to the Mediator requesting him to take steps to ensure water supply to the population of Jerusalem.⁴¹⁹

At the same meeting, the President's proposal was adopted by 8 votes in favour, 1 against, with 2 abstentions.⁴²⁰

Decisions of 19 August 1948 (354th meeting):

- (i) *Indicating obligations of Governments and authorities concerned under the resolution of 15 July 1948*
- (ii) *Transmitting to the Economic and Social Council and the International Refugee Organization the record of the Council's discussion on the problem of Palestinian Arab refugees and Jewish displaced persons*

By cablegram dated 18 August 1948,⁴²¹ the Mediator informed the Security Council that further de-

terioration of the situation in Jerusalem might lead to a general resumption of hostilities and requested the Council to take prompt action with a view to giving effect to its resolution of 15 July.

At the 354th meeting on 19 August 1948, the representatives of Canada, France, the United Kingdom and the United States submitted a joint draft resolution,⁴²² incorporating suggestions of the Mediator, to indicate the responsibilities of the parties with regard to truce violations, reprisals and retaliations, and to provide that no party was entitled to gain advantage through violation of the truce.

At the same meeting, the joint draft resolution was adopted in a paragraph by paragraph vote.⁴²³ The resolution⁴²⁴ read as follows:

"The Security Council,

"Taking into account communications from the Mediator concerning the situation in Jerusalem,

"Directs the attention of the governments and authorities concerned to the resolution of the Security Council of 15 July 1948, and

"Decides pursuant to its resolution of 15 July 1948, and so informs the governments and authorities concerned, that:

"(a) Each party is responsible for the actions of both regular and irregular forces operating under its authority or in territory under its control;

"(b) Each party has the obligation to use all means at its disposal to prevent action violating the Truce by individuals or groups who are subject to its authority or who are in territory under its control;

"(c) Each party has the obligation to bring to speedy trial and in case of conviction to punishment, any and all persons within their jurisdiction who are involved in a breach of the Truce;⁴²⁵

"(d) No party is permitted to violate the Truce on the ground that it is undertaking reprisals or retaliations against the other party;

"(e) No party is entitled to gain military or political advantage through violation of the Truce."

At the same meeting, the Council also decided, without objection, on the proposal of the representative of the United Kingdom, to transmit the record of its discussion on the question of Palestinian Arab refugees and Jewish displaced persons to the Economic and Social Council and the International Refugee Organization.⁴²⁶

Decisions of 18 September 1948 (358th meeting):

- (i) *Approval of designation of Dr. Ralph Bunche as Acting Mediator*
- (ii) *Request for a report from the Chief of Staff of the Mediator on the assassination of the Mediator*
- (iii) *Tribute to the Mediator*

By cablegram dated 17 September 1948, Dr. Ralph Bunche, Personal Representative of the Secretary-

⁴¹⁴ S/921, 339th meeting: p. 11.

⁴¹⁵ 340th meeting: pp. 33-34. For discussion preceding this resolution, see chapter XI, Case 11; and chapter VI, Case 29.

⁴¹⁶ 343rd meeting: pp. 4-7.

⁴¹⁷ 343rd meeting: pp. 21-22. For replies see S/948, from the United Nations Mediator; S/957, from the Arab Higher Committee; S/946, S/949 and S/965, from the Provisional Government of Israel; and S/962, from the representative of the United Kingdom (O.R., 3rd year, Suppl. for August 1948, pp. 100-109, 148-151 and 155-159).

⁴¹⁸ S/963, O.R., 3rd year, Suppl. for Aug. 1948, pp. 155-156.

⁴¹⁹ S/970, 349th meeting: p. 45.

⁴²⁰ 349th meeting: p. 46.

⁴²¹ S/977, 354th meeting: pp. 40-41.

⁴²² S/981.

⁴²³ 354th meeting: pp. 50-51.

⁴²⁴ S/983.

⁴²⁵ For the question of domestic jurisdiction in connexion with this paragraph, see chapter XII, Case 15.

⁴²⁶ 354th meeting: pp. 55-56.

General to the United Nations Mediator, informed the Secretary-General that the Mediator, Count Folke Bernadotte, and Colonel Andre P. Serot, United Nations Observer, had been assassinated on that date by "Jewish assailants" in the new City of Jerusalem.⁴²⁷

At the 358th meeting on 18 September, the Security Council approved without vote, two cablegrams⁴²⁸ which the Acting Secretary-General had sent on the previous day with the approval of the President of the Council empowering Dr. Ralph Bunche to assume full authority over the Palestine Mission until further notice and requesting the Chief of Staff of the Mediator to make the fullest investigation of the circumstances of the assassination.⁴²⁹

At the same meeting, the Council unanimously adopted a draft resolution submitted by the representative of Argentina.⁴³⁰ The resolution read as follows:

"The Security Council,

"Deeply shocked by the tragic death of the United Nations Mediator in Palestine, Count Folke Bernadotte, as the result of a cowardly act which appears to have been committed by a criminal group of terrorists in Jerusalem while the United Nations Representative was fulfilling his peace-seeking mission in the Holy Land,

"Resolves

"(1) To request the Secretary-General to keep the flag of the United Nations at half-mast for a period of three days;

"(2) To authorize the Secretary-General to meet from the Working Capital Fund all expenses connected with the death and burial of the United Nations Mediator;

"(3) To be represented at the interment by the President or the person whom he may appoint for the occasion."

The Council was accordingly represented at the funeral of the Mediator by its President.⁴³¹

Decisions of 19 October 1948 (367th meeting):

- (i) *Endorsement of the conclusions of the Acting Mediator's report on the situation in the Negeb as amended*
- (ii) *Relating to the investigation of the assassination of the Mediator, and the observance of the resolutions of 15 July and 19 August 1948*

By cablegram dated 27 September 1948,⁴³² the Acting Mediator submitted to the Council, in response to its request of 18 September to the Chief of Staff, a further report on the deaths of Count Bernadotte and Colonel Serot.

By cablegram dated 30 September 1948,⁴³³ the Acting Mediator drew the attention of the Council to the "increasingly serious situation in Palestine as regards the authority, prestige and even the safety of

the personnel engaged in the truce supervision work", and suggested that the Council might indicate to the parties that all the obligations set forth in the resolutions of 15 July and 19 August were to be fully discharged.

By cablegram dated 30 September 1948,⁴³⁴ the Chairman of the Truce Commission in Palestine informed the Council that a deliberate Jewish campaign led by the Military Governor of the part of Jerusalem under Jewish control was endeavouring to discredit the Truce Commission and the Acting Mediator.

The Council began consideration of these documents at the 365th meeting on 14 October 1948. At the same meeting, the representatives of China and the United Kingdom submitted a draft resolution⁴³⁵ relating to the investigation of the assassinations of the Mediator and Colonel Andre P. Serot, and to the fulfilment of the resolutions of 15 July and 19 August 1948.

At the 367th meeting on 19 October 1948, the Council also considered two complaints by Egypt alleging violations of the truce by Jewish forces;⁴³⁶ a complaint by the Provisional Government of Israel alleging breach of the truce by Egyptian forces;⁴³⁷ and a report dated 18 October by the Acting Mediator concerning the Negeb situation.⁴³⁸ The Acting Mediator drew the attention of the Council to the serious fighting which had been taking place in the Negeb and presented his conclusions on the situation.

The Acting Mediator's conclusions were amended and sponsored by the representative of Syria and adopted by the Security Council by a vote on parts. The first part of the conclusions calling for an immediate and effective cease-fire in the Negeb was adopted unanimously. The remainder of the conclusions regarding negotiations after the cease-fire were adopted by 9 votes in favour, with 2 abstentions.⁴³⁹ The resolution⁴⁴⁰ read as follows:

"The present situation in the Negeb is complicated by the fluid nature of military dispositions making the demarcation of truce lines difficult, the problem of the convoys to the Jewish settlements, as well as the problems of the dislocation of large numbers of Arabs and their inability to harvest their crops. In the circumstances, the indispensable condition to a restoration of the situation is an immediate and effective cease-fire. After the cease-fire, the following conditions might well be considered as the basis for further negotiations looking toward insurance that similar outbreaks will not again occur and that the truce will be fully observed in this area:

"(a) Withdrawal of both parties from any positions not occupied at the time of the outbreak;

⁴²⁷ S/1002.

⁴²⁸ S/1003, 358th meeting: p. 2.

⁴²⁹ 358th meeting: pp. 2-3.

⁴³⁰ S/1006, 358th meeting: p. 10.

⁴³¹ 360th meeting: pp. 1-2.

⁴³² S/1018, O.R., 3rd year, Suppl. for Oct. 1948, pp. 4-9.

⁴³³ S/1022, O.R., 3rd year, Suppl. for Oct. 1948, pp. 46-48.

⁴³⁴ S/1023, O.R., 3rd year, Suppl. for Oct. 1948, pp. 48-50.

⁴³⁵ S/1032, 365th meeting: pp. 28-29.

⁴³⁶ S/1038 and S/1041, O.R., 3rd year, Suppl. for Oct. 1948, pp. 54 and 54-55.

⁴³⁷ S/1043, *Ibid.*, pp. 63-67.

⁴³⁸ S/1042, *Ibid.*, pp. 55-63.

⁴³⁹ 367th meeting: p. 38.

⁴⁴⁰ S/1044.

"(b) Acceptance by both parties of the conditions set forth in the Central Truce Supervision Board decision number twelve affecting convoys;

"(c) Agreement by both parties to undertake negotiation through United Nations intermediaries or directly as regards outstanding problems in the Negeb and the permanent stationing of United Nations Observers throughout the area."

At the same meeting, the representatives of China and the United Kingdom accepted a USSR amendment to the joint draft resolution submitted by them at the 365th meeting. The amendment was to remind the Mediator of the desirability of an equitable distribution of United Nations observers on the territories of both parties.⁴⁴¹

The joint draft resolution, as amended, was then adopted unanimously.⁴⁴² The resolution⁴⁴³ read as follows:

"The Security Council,

"Having in mind the report of the Acting Mediator concerning the assassinations on 17 September of the United Nations Mediator Count Folke Bernadotte and United Nations Observer Colonel André Sérot (document S/1018), the report of the Acting Mediator concerning difficulties encountered in the supervision of the truce (document S/1022); and the report of the Truce Commission for Palestine concerning the situation in Jerusalem (document S/1023).

"Notes with concern that the Provisional Government of Israel has to date submitted no report to the Security Council or to the Acting Mediator regarding the progress of the investigation into the assassinations;

"Requests that Government to submit to the Security Council at an early date an account of the progress made in the investigation and to indicate therein the measures taken with regard to negligence on the part of officials or other factors affecting the crime;

"Reminds the Governments and authorities concerned that all the obligations and responsibilities of the parties set forth in its resolutions of 15 July and 19 August 1948 are to be discharged fully and in good faith;

"Reminds the Mediator of the desirability of an equitable distribution of the United Nations observers for the purpose of observing the truce on the territories of both parties;

"Determines, pursuant to its resolutions of 15 July and 19 August 1948, that the Governments and authorities have the duty:

"(a) To allow duly accredited United Nations observers and other Truce Supervision personnel bearing proper credentials, on official notification, ready access to all places where their duties require them to go including airfields, ports, truce lines and strategic points and areas;

"(b) To facilitate the freedom of movement of Truce Supervision personnel and transport by sim-

plifying procedures on United Nations aircraft now in effect, and by assurances of safe-conduct for all United Nations aircraft and other means of transport;

"(c) To co-operate fully with the Truce Supervision personnel in their conduct of investigations into incidents involving alleged breaches of the truce, including the making available of witnesses, testimony and other evidence on request;

"(d) To implement fully by appropriate and prompt instructions to the commanders in the field all agreements entered into through the good offices of the Mediator or his representatives;

"(e) To take all reasonable measures to ensure the safety and safe-conduct of the Truce Supervision personnel and the representatives of the Mediator, their aircraft and vehicles, while in territory under their control;

"(f) To make every effort to apprehend and promptly punish any and all persons within their jurisdictions guilty of any assault upon or other aggressive act against the Truce Supervision personnel or the representatives of the Mediator."

Decisions of 4 November 1948 (377th meeting):

(i) Calling for the withdrawal of forces to positions held on 14 October 1948 and for the establishment of permanent truce lines and demilitarized zones and appointing a Committee of the Council to advise the Acting Mediator

(ii) Rejection of draft resolution submitted by the representative of the Ukrainian SSR

The Acting Mediator reported to the Council on 23 October 1948 that, in response to the resolution of 19 October, the Egyptian Government and the Provisional Government of Israel had informed him that cease-fire orders had been issued to their forces.⁴⁴⁴

By letter dated 23 October 1948,⁴⁴⁵ Egypt requested an urgent meeting of the Council to consider alleged constant and increasing violations of the truce by "the Zionist forces in Palestine".

At the 373rd meeting on 26 October 1948, the Council received from the Acting Mediator a letter transmitting communications from the Government of Egypt and the Provisional Government of Israel concerning convoys to the Negeb settlements⁴⁴⁶ and a report on the observance of the truce in the Negeb and in the Lebanese sector.⁴⁴⁷

At the same meeting, the Acting Mediator informed the Council⁴⁴⁸ that, on 25 October 1948, his Chief of Staff had requested the Government of Egypt and the Provisional Government of Israel that the forces of both sides be withdrawn to the truce lines as they existed in the Negeb sector on 14 October.

At the 374th meeting on 28 October 1948, the Council had before it the reply of the Provisional Government of Israel to the Acting Mediator stating that the Council, in its resolution of 19 October, had

⁴⁴⁴ S/1049.

⁴⁴⁵ S/1052, 373rd meeting: p. 2.

⁴⁴⁶ S/1053, 373rd meeting: pp. 2-3.

⁴⁴⁷ S/1055, 373rd meeting: pp. 3-7.

⁴⁴⁸ 373rd meeting: pp. 23-24.

⁴⁴¹ 367th meeting: p. 39.

⁴⁴² 367th meeting: p. 40.

⁴⁴³ S/1045, *O.R.*, 3rd year, *Suppl. for Oct. 1948*, pp. 67-68.

defined the withdrawal of both parties as a possible subject for further negotiations and not as an absolute injunction.⁴⁴⁹ It had also before it a communication from Egypt agreeing to the contents of the message of 25 October.⁴⁵⁰

At the same meeting, the representatives of China and the United Kingdom submitted a joint draft resolution,⁴⁵¹ of which a revision was submitted at the 375th meeting on 29 October 1948.⁴⁵² On the proposal of the representative of Canada, the Council appointed a sub-committee to consider amendments and revisions which had been or might be submitted and in consultation with the Acting Mediator to prepare a revised draft resolution.⁴⁵³

At the 376th meeting on 4 November 1948, the Council received the report of the Sub-Committee⁴⁵⁴ which included a new text of the draft resolution as approved by a majority with reservations specified in the report.

At the same meeting, the representative of the United States submitted amendments to the Sub-Committee's text⁴⁵⁵ and the representative of the Ukrainian SSR submitted a draft resolution⁴⁵⁶ calling upon the two parties to begin negotiations on the basis of the resolution of 19 October with a view to the peaceful settlement of unresolved questions.

At the 377th meeting on 4 November 1948, the Council adopted the draft resolution submitted by the Sub-Committee and the United States amendment by a paragraph by paragraph vote and by a vote on the amended draft resolution as a whole. The amended draft resolution as a whole was adopted by 9 votes in favour, 1 against, with 1 abstention.⁴⁵⁷ The resolution⁴⁵⁸ read as follows:

"The Security Council,

"Having decided on 15 July that, subject to further decision by the Security Council or the General Assembly, the truce shall remain in force in accordance with the resolution of that date and with that of 29 May 1948 until a peaceful adjustment of the future situation of Palestine is reached;

"Having decided on 19 August that no party is permitted to violate the truce on the ground that it is undertaking reprisals or retaliations against the other party, and that no party is entitled to gain military or political advantage through violation of the truce; and

"Having decided on 29 May that, if the truce was subsequently repudiated or violated by either party or by both, the situation in Palestine could be reconsidered with a view to action under Chapter VII of the Charter;⁴⁵⁹

"Takes note of the request communicated to the Government of Egypt and the Provisional Government of Israel by the Acting Mediator on 26 October (S/1058) following upon the resolution adopted by the Security Council on 19 October 1948; and

"Calls upon the interested Governments, without prejudice to their rights, claims or position with regard to a peaceful adjustment of the future situation of Palestine or to the position which the Members of the United Nations may wish to take in the General Assembly on such peaceful adjustment:

"(1) To withdraw those of their forces which have advanced beyond the positions held on 14 October, the Acting Mediator being authorized to establish provisional lines beyond which no movement of troops shall take place;

"(2) To establish, through negotiations conducted directly between the parties, or failing that, through the intermediaries in the service of the United Nations, permanent truce lines and such neutral or demilitarized zones as may appear advantageous, in order to ensure henceforth the full observance of the truce in that area. Failing an agreement, the permanent lines and neutral zones shall be established by decision of the Acting Mediator; and

"Appoints a Committee of the Council, consisting of the five permanent members together with Belgium and Colombia, to give such advice as the Acting Mediator may require with regard to his responsibilities under this resolution and, in the event that either party or both should fail to comply with sub-paragraphs (1) and (2) of the preceding paragraph of this resolution within whatever time-limits the Acting Mediator may think it desirable to fix, to study as a matter of urgency and to report to the Council on further measures it would be appropriate to take under Chapter VII of the Charter."

At the same meeting, the Ukrainian draft resolution was voted upon in parts and rejected by 2 votes in favour and 1 against, with 8 abstentions.⁴⁶⁰

Decisions of 16 November 1948 (381st meeting):

- (i) Calling for the establishment of an armistice⁴⁶¹*
- (ii) Rejection of draft resolution submitted by the representative of the USSR*

At the 377th meeting on 4 November 1948, the representative of Lebanon* raised the question whether the resolution adopted at that meeting applied to incidents in Galilee as well as to those in the Negeb. Following discussion, the representative of the United Kingdom proposed a draft resolution⁴⁶² to extend the scope of the resolution to the situation in northern Palestine.

At the 378th meeting, held in private on 9 November, the Acting Mediator* submitted suggestions in the form of a draft resolution,⁴⁶³ to which amendments⁴⁶⁴ were submitted by the representative of the USSR at

⁴⁴⁹ S/1057, O.R., 3rd year, Suppl. for Oct. 1948, p. 69.

⁴⁵⁰ 374th meeting: p. 4.

⁴⁵¹ S/1059, 374th meeting: pp. 12-13.

⁴⁵² S/1059/Rev.2, O.R., 3rd year, Suppl. for Oct. 1948, p. 72.

⁴⁵³ 375th meeting: p. 22.

⁴⁵⁴ S/1064, O.R., 3rd year, Suppl. for Nov. 1948, pp. 1-6.

⁴⁵⁵ S/1067.

⁴⁵⁶ S/1065, 376th meeting: p. 6.

⁴⁵⁷ 377th meeting: pp. 38-43.

⁴⁵⁸ S/1070, O.R., 3rd year, Suppl. for Nov. 1948, p. 7.

⁴⁵⁹ For discussion in connexion with this paragraph, see chapter XI, Case 17.

⁴⁶⁰ 377th meeting: pp. 45-46.

⁴⁶¹ See chapter XI, Case 12, for observations on the conclusion of the armistice agreements in relation to the provisions of the Charter.

⁴⁶² S/1069, 377th meeting: p. 53.

⁴⁶³ S/1076, 378th meeting: pp. 62-63.

⁴⁶⁴ S/1077, 379th meeting: p. 64.

the 379th meeting, also held in private, on 10 November. As amended, this draft resolution would call upon the parties directly involved in the conflict in Palestine to undertake immediate negotiations directly or through the good offices of the Acting Mediator concerning the settlement of all outstanding problems of the truce and the establishment of a formal peace.

At the 380th meeting on 15 November, the representatives of Belgium, Canada and France submitted a joint draft resolution⁴⁶⁵ on the establishment of an armistice in Palestine.

At the 381st meeting on 16 November, the representative of the United Kingdom withdrew his draft resolution and the representative of Syria proposed an amendment⁴⁶⁶ to the joint draft resolution to provide that the resolution of 4 November should be applied to the Galilee area.

At the same meeting, the draft resolution submitted by the Acting Mediator, as revised by the representative of the USSR, was voted upon in parts and rejected by 2 votes in favour and 9 abstentions.⁴⁶⁷

At the same meeting, the Syrian amendment to the joint draft resolution was rejected by 3 votes in favour and 8 abstentions.⁴⁶⁸

At the same meeting, the joint draft resolution was voted on in parts and adopted. There were 8 votes in favour and 3 abstentions on the first three paragraphs and 8 votes in favour, 1 against and 2 abstentions on the fourth and fifth paragraphs.⁴⁶⁹ The resolution⁴⁷⁰ read as follows:

"The Security Council,

"Reaffirming its previous resolutions concerning the establishment and implementation of the truce in Palestine, and recalling particularly its resolution of 15 July 1948 which determined that the situation in Palestine constitutes a threat to the peace within the meaning of Article 39 of the Charter;

"Taking note that the General Assembly is continuing its consideration of the future government of Palestine in response to the request of the Security Council of 1 April 1948 (S/714);

"Without prejudice to the actions of the Acting Mediator regarding the implementation of the resolution of the Security Council of 4 November 1948,

"Decides that, in order to eliminate the threat to the peace in Palestine and to facilitate the transition from the present truce to permanent peace in Palestine, an armistice shall be established in all sectors of Palestine;

"Calls upon the parties directly involved in the conflict in Palestine, as a further provisional measure under Article 40 of the Charter, to seek agreement forthwith, by negotiations conducted either directly or through the Acting Mediator on Palestine, with a view to the immediate establishment of the armistice including:

"(a) The delineation of permanent armistice demarcation lines beyond which the armed forces of the respective parties shall not move;

"(b) Such withdrawal and reduction of their armed forces as will ensure the maintenance of the armistice during the transition to permanent peace in Palestine."

Decision of 29 December 1948 (396th meeting): Calling for an immediate cease-fire and implementation of the resolution of 4 November 1948

By cablegram dated 23 December 1948⁴⁷¹ and letter dated 24 December 1948⁴⁷² Egypt informed the Council that Jewish forces had launched a new large-scale attack and requested an urgent meeting to examine the situation resulting from alleged repeated violations by Jewish forces of the cease-fire orders of the Council.

By cablegrams dated 25 December and 27 December 1948,⁴⁷³ the Acting Mediator transmitted reports concerning the fighting in the Negeb. He stated that he was unable to supervise effectively the truce in the Negeb, since United Nations observers were being refused access to the area on the Israeli side; and that the intransigent attitude assumed by Israeli authorities on the situation at Al Faluja was a major factor in preventing progress toward implementation of the Council resolution of 16 November.

The Council considered these communications at the 394th, 395th and 396th meetings on 28 and 29 December 1948.

At the 394th meeting, the representative of the United Kingdom submitted a draft resolution⁴⁷⁴ which was revised at the 396th meeting on the suggestions of the representatives of France and China.⁴⁷⁵

At the same meeting, the draft resolution as revised was voted upon in parts, and adopted as a whole by 8 votes in favour and 3 abstentions.⁴⁷⁶ The resolution⁴⁷⁷ read as follows:

"The Security Council,

"Having considered the report of the Acting Mediator (document S/1152) on the hostilities which broke out in Southern Palestine on 22 December,

"Calls upon the Governments concerned:

"(i) to order an immediate cease-fire;

"(ii) to implement without further delay the resolution of 4 November and the instructions issued by the Acting Mediator in accordance with paragraph 5(1) of that resolution; and

"(iii) to allow and facilitate the complete supervision of the truce by the United Nations observers;

"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

⁴⁷¹ S/1147.

⁴⁷² S/1151, O.R., 3rd year, Suppl. for Dec. 1948, pp. 299-300.

⁴⁷³ S/1152 and S/1153, O.R., 3rd year, Suppl. for Dec. 1948, pp. 300-305.

⁴⁷⁴ S/1163, 394th meeting: pp. 13-14.

⁴⁷⁵ S/1169, 396th meeting: pp. 23-26.

⁴⁷⁶ 396th meeting: pp. 23-26.

⁴⁷⁷ S/1169.

⁴⁶⁵ S/1079, 380th meeting: pp. 4-5.

⁴⁶⁶ 381st meeting: p. 54.

⁴⁶⁷ 381st meeting: pp. 51-53.

⁴⁶⁸ 381st meeting: p. 55.

⁴⁶⁹ 381st meeting: pp. 53-55.

⁴⁷⁰ S/1080, O.R., 3rd year, Suppl. for Nov. 1948, pp. 13-14.

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); and

“Expresses the hope that the members of the Conciliation Commission appointed by the General Assembly on 11 December will nominate their representatives and establish the Commission with as little delay as possible.”

Decisions of 11 August 1949 (437th meeting):

- (i) *Tributes to the Mediator, Acting Mediator and their staffs*
- (ii) *Reaffirming the cease-fire order, relieving the Acting Mediator of further responsibility under Council resolutions, and calling on the parties to insure observance of the armistice agreements*

By letter dated 21 July 1949,⁴⁷⁸ the Acting Mediator submitted a report on the status of the armistice negotiations and the truce in Palestine. He stated that as a result of armistice agreements between Israel and the neighbouring states an armistice applied at that time to all of the fighting fronts in Palestine. The Council's resolution of 16 November 1948 had thus been fulfilled by the parties to the Palestine dispute. He annexed to his report suggestions in the form of a draft resolution.

The report was considered by the Council at the 433rd to 435th and 437th meetings between 4 and 11 August 1949.

At the 433rd meeting on 4 August, the representatives of Canada and Norway submitted a joint draft resolution⁴⁷⁹ to pay tribute to the United Nations Mediator on Palestine.

At the 434th meeting on 4 August, the representative of Canada submitted a draft resolution sponsoring the Acting Mediator's suggestions, and incorporating certain amendments.⁴⁸⁰ The representative of France submitted amendments to the Canadian draft resolution.⁴⁸¹ At the 435th meeting on 8 August, three texts were replaced by a joint Canadian-French draft resolution.⁴⁸²

At the 437th meeting on 11 August, the representative of the USSR submitted amendments⁴⁸³ to the joint Canadian-French draft resolution to delete references to the Conciliation Commission for Palestine, to recall the United Nations observers from Palestine, and to disband the staff of the United Nations Truce Supervision Organization.

At the same meeting, the joint draft resolution submitted by Canada and Norway at the 433rd meeting was adopted without objection.⁴⁸⁴ The resolution⁴⁸⁵ read as follows:

“The Security Council,

“Having taken note of the report of the Acting United Nations Mediator on Palestine, submitted upon the completion of his responsibilities,

“Desires to pay special tribute to the qualities of patience, perseverance and devotion to the ideal of international peace of the late Count Folke Bernadotte, who stabilized the situation in Palestine and who, together with ten members of his staff, gave his life in the service of the United Nations, and

“Desires to express its deep appreciation of the qualities of tact, understanding, perseverance and devotion to duty of Dr. Ralph J. Bunche, Acting United Nations Mediator on Palestine, who has brought to a successful conclusion the negotiation of armistice agreements between Egypt, Jordan, Lebanon and Syria on the one hand, and Israel on the other, and.

“Desires also to associate in this expression of appreciation the members of the staff of the United Nations Mission in Palestine, including both the members of the United Nations Secretariat and the Belgian, French, Swedish and United States Officers who served on the staff and as military observers in Palestine.”

At the same meeting, the USSR amendments to the joint Canadian-French draft resolution were rejected. The first two amendments received 2 votes in favour and 2 against, with 7 abstentions. The third amendment received 2 votes in favour and 6 against, with 3 abstentions.⁴⁸⁶

At the same meeting, the joint Canadian-French draft resolution was adopted by 9 votes in favour, none against, with 2 abstentions.⁴⁸⁷ The resolution⁴⁸⁸ read as follows:

“The Security Council,

“Having noted with satisfaction the several armistice agreements concluded by means of negotiations between the parties involved in the conflict in Palestine in pursuance of its resolution of 16 November 1948 (S/1080);

“Expresses the hope that the Governments and authorities concerned, having undertaken by means of the negotiations now being conducted by the Palestine Conciliation Commission, to fulfil the request of the General Assembly in its resolution of 11 December 1948 to extend the scope of the armistice negotiations and to seek agreement by negotiations conducted either with the Conciliation Commission or directly, will at an early date achieve agreement on the final settlement of all questions outstanding between them;

“Finds that the armistice agreements constitute an important step toward the establishment of permanent peace in Palestine and considers that these agreements supersede the truce provided for in the resolutions of the Security Council of 29 May and 15 July 1948;

⁴⁷⁸ S/1357, O.R., 4th year, Suppl. for Aug. 1949, pp. 1-7.

⁴⁷⁹ S/1362, O.R., 4th year, Suppl. for Aug. 1949, pp. 8-9.

⁴⁸⁰ S/1365, 434th meeting: p. 28.

⁴⁸¹ S/1364, 434th meeting: pp. 35-36.

⁴⁸² S/1367, 435th meeting: pp. 2-3.

⁴⁸³ S/1375, O.R., 4th year, Suppl. for Aug. 1949, p. 9.

⁴⁸⁴ 437th meeting: p. 12.

⁴⁸⁵ S/1376-I.

⁴⁸⁶ 437th meeting: pp. 12-13.

⁴⁸⁷ 437th meeting: p. 13.

⁴⁸⁸ S/1376-II. For discussion in connexion with this resolution, see chapter XI, Case 12.

"Reaffirms, pending the final peace settlement, the order contained in its resolution of 15 July 1948 to the Governments and authorities concerned, pursuant to Article 40 of the Charter of the United Nations, to observe an unconditional cease-fire and, bearing in mind that the several armistice agreements include firm pledges against any further acts of hostility between the parties and also provide for their supervision by the parties themselves, relies upon the parties to ensure the continued application and observance of these agreements;

"Decides that all functions assigned to the United Nations Mediator on Palestine having been discharged, the Acting Mediator is relieved of any further responsibility under Security Council resolutions;

"Notes that the armistice agreements provide that the execution of those agreements shall be supervised by mixed armistice commissions whose Chairman in each case shall be the United Nations Chief of Staff of the Truce Supervision Organization or a senior officer from the observer personnel of that organization designated by him following consultation with the parties to the agreements;

"Requests the Secretary-General to arrange for the continued service of such of the personnel of the present Truce Supervision Organization as may be required in observing and maintaining the cease-fire, and as may be necessary in assisting the parties to the armistice agreements in the supervision of the application and observance of the terms of those agreements, with particular regard to the desires of the parties as expressed in the relevant articles of the agreements;

"Requests the Chief of Staff mentioned above to report to the Security Council on the observance of the cease-fire in Palestine in accordance with the terms of this resolution; and to keep the Palestine Conciliation Commission informed of matters affecting the Commission's work under the General Assembly resolution of 11 December 1948."

Decision of 25 October 1949 (453rd meeting): Adjournment of further discussion on the question of the demilitarization of the Jerusalem area

At the request of the representative of Egypt, the Security Council, at the 450th meeting on 11 October 1949, included on the agenda the question of the "demilitarization of the Jerusalem area, with special reference to General Assembly resolution 194 (III), dated 11 December 1948".⁴⁸⁹

The question was considered at the 453rd meeting on 25 October. At the same meeting, the Council decided, without objection, on the proposal of the President (United States), to adjourn further discussion of the question indefinitely and to leave the item, pending the discussion in the General Assembly, on the list of matters of which the Security Council was seized.⁴⁹⁰

⁴⁸⁹ 450th meeting: pp. 1-2.

⁴⁹⁰ 453rd meeting: p. 4.

Decision of 17 November 1950 (524th meeting): Reference to the Mixed Armistice Commissions of complaints submitted to the Council by the parties

Complaints regarding alleged violations of armistice agreements were submitted for inclusion in the agenda of the Council by Egypt by letter dated 15 September 1950,⁴⁹¹ by Israel by telegram dated 16 September 1950,⁴⁹² and by Jordan by letter dated 21 September 1950.⁴⁹³

At the 502nd meeting on 18 September 1950, the Council decided to include the Egyptian complaint in its agenda.⁴⁹⁴ At the 503rd meeting on 26 September, it decided, at the suggestion of the President (United Kingdom) to combine the complaints submitted by Egypt and by Israel under the heading "The Palestine question".⁴⁹⁵ At the 511th meeting on 16 October, the Council adopted without objection the following item in the agenda.⁴⁹⁶

"The Palestine question:

"(a) Expulsion by Israel of thousands of Palestinian Arabs into Egyptian territory, and violation by Israel of the Egyptian-Israeli General Armistice Agreement (S/1790);

"(b) Violation by Egypt of the Egyptian-Israeli General Armistice Agreement through the maintenance for seventeen months of blockade practices inconsistent with the letter and spirit of the armistice agreement (S/1794);

"(c) Violation by Jordan of the General Armistice Agreement between the Hashemite Kingdom of the Jordan and Israel through non-implementation for nineteen months of article VIII of the armistice agreement (S/1794);

"(d) Violation by Egypt and Jordan of their respective armistice agreements with Israel by officially and publicly threatening aggressive action contrary to article I, paragraph 2, of the aforesaid agreements (S/1794);

"(e) Non-observance by Egypt and Jordan of the procedures laid down in article X, paragraph 7, and article XI, paragraph 7, of their respective armistice agreements with Israel, stating that claims or complaints presented by either party shall be referred immediately to the Mixed Armistice Commission through its Chairman (S/1794);

"(f) Complaint of aggression perpetrated by Israel on 28 August 1950 and of its occupation of Jordan territory situated near the confluence of the rivers Yarmuk and Jordan (S/1824)."

The Council considered the complaints at the 511th, 514th, 517th, 518th, 522nd and 524th meetings between 16 October and 17 November 1950.

At the 522nd meeting on 13 November, the representatives of France, the United Kingdom and the United States submitted a joint draft resolution⁴⁹⁷ to

⁴⁹¹ S/1790, O.R., 5th year, Suppl. for Sept.-Dec. 1950, pp. 23-24.

⁴⁹² S/1794, O.R., 5th year, Suppl. for Sept.-Dec. 1950, p. 55.

⁴⁹³ S/1824, O.R., 5th year, Suppl. for Sept.-Dec. 1950, pp. 63-69.

⁴⁹⁴ 502nd meeting: p. 15.

⁴⁹⁵ 503rd meeting: p. 10.

⁴⁹⁶ 511th meeting: p. 2.

⁴⁹⁷ S/1899, 522nd meeting: pp. 15-17.

refer the complaints to the corresponding Mixed Armistice Commissions.

At the 524th meeting on 17 November, the representative of Egypt made several suggestions for amending the draft resolution,⁴⁹⁸ and at the same meeting, the sponsors submitted a revised draft resolution.⁴⁹⁹

At the same meeting, the revised joint draft resolution was adopted by 9 votes in favour, with 2 abstentions.⁵⁰⁰ The resolution⁵⁰¹ read as follows:

"The Security Council,

"Recalling its resolution of 11 August 1949 where-in it noted with satisfaction the several armistice agreements concluded by means of negotiations between the parties involved in the conflict in Palestine; expressed the hope that the Governments and authorities concerned would at an early date achieve agreement on final settlement of all questions outstanding between them; noted that the various armistice agreements provided that the execution of the agreements would be supervised by Mixed Armistice Commissions whose chairman in each case would be the United Nations Chief of Staff of the Truce Supervision Organization or his designated representative; and, bearing in mind that the several armistice agreements include firm pledges against any further act of hostility between the parties and also provide for their supervision by the parties themselves, relied upon the parties to ensure the continued application and observance of these agreements,

"Taking into consideration the views expressed and the data given by the representatives of Egypt, Israel, and the Hashemite Kingdom of Jordan and the Chief of Staff of the Truce Supervision Organization on the complaints submitted to the Council: (S/1790, S/1794, S/1824);

"Notes that with regard to the implementation of article VIII of the Israel-Jordan General Armistice Agreement the Special Committee has been formed and has convened and hopes that it will proceed expeditiously to carry out the functions contemplated in paragraphs 2 and 3 of that article;

"Calls upon the parties to the present complaints to consent to the handling of complaints according to the procedures established in the armistice agreements for the handling of complaints and the settlement of points at issue;

"Requests the Israel-Egyptian Mixed Armistice Commission to give urgent attention to the Egyptian complaint of expulsion of thousands of Palestine Arabs;

"Calls upon both parties to give effect to any finding of the Israel-Egyptian Mixed Armistice Commission regarding the repatriation of any such Arabs who in the Commission's opinion are entitled to return;

"Authorizes the Chief of Staff of the Truce Supervision Organization with regard to the movement of nomadic Arabs to recommend to Israel, Egypt and to such other Arab States as may be appropriate, such steps as he may consider necessary to control the movement of such nomadic Arabs across international frontiers or armistice lines by mutual agreement;

"Calls upon the Government concerned to take in the future no action involving the transfer of persons across international frontiers or armistice lines without prior consultation through the Mixed Armistice Commissions;

"Takes note of the statement of the Government of Israel that Israel armed forces will evacuate Bir Qattar pursuant to the 20 March 1950 decision of the Special Committee, provided for in article X, paragraph 4, of the Egyptian-Israel General Armistice Agreement, and that the Israel armed forces will withdraw to positions authorized by the Armistice Agreement;

"Reminds Egypt and Israel as Member States of the United Nations of their obligations under the Charter to settle their outstanding differences, and further reminds Egypt, Israel, and the Hashemite Kingdom of Jordan that the armistice agreements to which they are parties contemplate 'the return of permanent peace in Palestine', and, therefore, urges them and the other States in the area to take all such steps as will lead to the settlement of the issues between them;

"Requests the Chief of Staff of the Truce Supervision Organization to report to the Security Council at the end of ninety days, or before if he deems necessary, on the compliance given to this resolution and upon the status of the operations of the various Mixed Armistice Commissions, and further requests that he submit periodically to the Security Council reports of all decisions made by the various Mixed Armistice Commissions and the Special Committee provided for in article X, paragraph 4, of the Egyptian-Israel General Armistice Agreement."

Decision of 8 May 1951 (545th meeting): Calling for cessation of fighting in and around the demilitarized zone established by the Syrian-Israel General Armistice Agreement⁵⁰²

The representative of Syria, by letters dated 6 April⁵⁰³ and 9 April 1951,⁵⁰⁴ and the representative of Israel, by telegram dated 7 April 1951,⁵⁰⁵ requested the Council to include several complaints regarding violations of the Syrian-Israel General Armistice Agreement of 20 July 1949 in the agenda. The second Syrian letter held that the matters brought by it to the notice of the Council fell under Articles 34 and 35 of the Charter.

⁵⁰² For the preceding discussion concerning the applicability of Articles 39 and 40, see chapter XI, Case 13.

⁵⁰³ S/2075, O.R., 6th year, Suppl. for April-June 1951, p. 38.

⁵⁰⁴ S/2078, O.R., 6th year, Suppl. for April-June 1951, pp. 39-40.

⁵⁰⁵ S/2077, O.R., 6th year, Suppl. for April-June 1951, pp. 38-39.

⁴⁹⁸ 524th meeting: pp. 6-7.

⁴⁹⁹ 524th meeting: pp. 9-10.

⁵⁰⁰ 524th meeting: p. 16.

⁵⁰¹ S/1907, O.R., 5th year, Suppl. for Sept.-Dec. 1950, pp. 122-124.

At the 541st meeting on 17 April 1951, these complaints were included in the agenda, without objection,⁵⁰⁶ in the following form:

"The Palestine question:

"(a) Violations of the General Armistice Agreement (Starting and continuing operations for draining the Huleh swamps within the demilitarized zone against the wishes of Syria, Arab landowners and United Nations Supervisors, thus violating repeatedly the terms of the Armistice Agreement and defying the recommendation and advice of the United Nations Supervisors) (S/2075, S/2078);

"(b) Military Occupation by Israel of demilitarized zones (Occupation of demilitarized zones by Israel forces and deliberate attack against a Syrian post by Israel police patrols; Israel attempt to occupy Hamneh where they were repulsed with loss) (S/2075, S/2078);

"(c) Firing on Syrian posts (Firing of automatic weapons and mortars on Syrian military posts) (S/2075, S/2078);

"(d) Evacuation of Arab inhabitants (Evacuation of the Arab inhabitants by force within the demilitarized zones) (S/2075, S/2078);

"(e) Bombing and demolishing incidents (Bombing of Syrian military posts and demolishing of Arab villages on Syrian territory on 5 April 1951) (S/2075, S/2078);

"(f) Complaint of Syrian violation of the General Armistice Agreement between Israel and Syria by persistent firing on civilian workers in the demilitarized zone in Israel territory near Banat Yakub on 15 March 1951 and between 25 and 28 March 1951 (S/2077);

"(g) Complaint of Syrian violation of the General Armistice Agreement between Israel and Syria by the entry of Syrian armed forces into the demilitarized zone in Israel territory between El Hamma and Khirbeth Tewfig on 3 April 1951 (S/2077);

"(h) Complaint of Syrian violation of the General Armistice Agreement between Israel and Syria by the action of Syrian armed forces in opening fire on Israel civilian policemen near El Hamma in Israel territory on 4 April 1951, killing seven Israel civilian policemen and wounding three (S/2077)."

The Council considered the complaints at the 541st and 542nd meetings on 17 and 25 April and at the 544th to 547th meetings between 2 and 18 May 1951.

By telegram dated 6 May 1951,⁵⁰⁷ the permanent representative of Israel requested that the Council be convened urgently to include in the agenda and to discuss the following item:

"Israel complaint of Syrian aggression against Israel territory since 2 May 1951 and persistent Syrian attacks on the demilitarized zone."

At the 545th meeting on 8 May, the Council included the complaint in the agenda as sub-item (i) under "The Palestine question".⁵⁰⁸

At the same meeting, the representatives of France, Turkey, the United Kingdom and the United States submitted a joint draft resolution⁵⁰⁹ which was adopted by 10 votes in favour, with 1 abstention.⁵¹⁰ The resolution read as follows:

"The Security Council,

"1. *Recalling* its resolutions of 15 July 1948, 11 August 1949, and 17 November 1950,

"2. *Noting* with concern that fighting has broken out in and around the demilitarized zone established by the Syrian-Israel General Armistice Agreement of 20 July 1949 and that fighting is continuing despite the cease-fire order of the Acting Chief of Staff of the United Nations Truce Supervision Organization issued on 4 May 1951,

"3. *Calls upon* the parties or persons in the areas concerned to cease fighting, and brings to the attention of the parties their obligations under Article 2, paragraph 4, of the Charter of the United Nations and the Security Council's resolution of 15 July 1948 and their commitments under the General Armistice Agreement, and accordingly calls upon them to comply with these obligations and commitments."

Decision of 18 May 1951 (547th meeting): Calling upon the Governments of Israel and Syria for action on various matters which had been brought before the Security Council

The Council then continued consideration of the complaints before it.

At the 546th meeting on 16 May 1951, the representatives of France, Turkey, the United Kingdom and the United States submitted a joint draft resolution⁵¹¹ indicating measures to be taken by the parties in connexion with matters brought before the Council.

At its 547th meeting on 18 May 1951, the joint draft resolution was adopted by 10 votes in favour, with 1 abstention.⁵¹² The resolution⁵¹³ read as follows:

"The Security Council,

"*Recalling* its past resolutions of 15 July 1948, 11 August 1949, 17 November 1950 and 8 May 1951 relating to the General Armistice Agreements between Israel and the neighboring Arab States and to the provisions contained therein concerning methods for maintaining the armistice and resolving disputes through the Mixed Armistice Commission participated in by the parties to the General Armistice Agreements,

"*Noting* the complaints of Syria and Israel to the Security Council, statements in the Council of the representatives of Syria and Israel, the reports to the Secretary-General of the United Nations by the Chief of Staff and the Acting Chief of Staff of the United Nations Truce Supervision Organization for Palestine and statements before the Council by the Chief of Staff of the United Nations Truce Supervision Organization for Palestine,

⁵⁰⁶ S/2130, 545th meeting: p. 4.

⁵¹⁰ 545th meeting: p. 28.

⁵¹¹ S/2152/Rev.1, 546th meeting: pp. 2-5.

⁵¹² 547th meeting: p. 41.

⁵¹³ S/2157.

⁵⁰⁹ 541st meeting: p. 2.

⁵⁰⁷ S/2121, O.R., 6th year, Suppl. for April-June 1951, pp. 100-101.

⁵⁰⁸ 545th meeting: p. 3.

"Noting that the Chief of Staff of the Truce Supervision Organization in a memorandum of 7 March 1951, and the Chairman of the Syrian-Israel Mixed Armistice Commission on a number of occasions have requested the Israel delegation to the Mixed Armistice Commission to ensure that the Palestine Land Development Company, Limited, is instructed to cease all operations in the demilitarized zone until such time as an agreement is arranged through the Chairman of the Mixed Armistice Commission for continuing this project, and,

"Noting further that article V of the General Armistice Agreement between Israel and Syria gives to the Chairman the responsibility for the general supervision of the demilitarized zone,

"Endorses the requests of the Chief of Staff and the Chairman of the Mixed Armistice Commission on this matter and calls upon the Government of Israel to comply with them;

"Declares that in order to promote the return of permanent peace in Palestine, it is essential that the Governments of Israel and Syria observe faithfully the General Armistice Agreement of 20 July 1949;

"Notes that under article VII, paragraph 8, of the Armistice Agreement, where interpretation of the meaning of a particular provision of the agreement, other than the preamble and articles I and II, is at issue, the Mixed Armistice Commission's interpretation shall prevail;

"Calls upon the Governments of Israel and Syria to bring before the Mixed Armistice Commission or its Chairman, whichever has the pertinent responsibility under the Armistice Agreement, their complaints and to abide by the decisions resulting therefrom;

"Considers that it is inconsistent with the objectives and intent of the Armistice Agreement to refuse to participate in meetings of the Mixed Armistice Commission or to fail to respect requests of the Chairman of the Mixed Armistice Commission as they relate to his obligations under article V and calls upon the parties to be represented at all meetings called by the Chairman of the Commission and to respect such requests;

"Calls upon the parties to give effect to the following excerpt cited by the Chief of Staff of the Truce Supervision Organization at the 542nd meeting of the Security Council on 25 April 1951, as being from the summary record of the Syria-Israel Armistice Conference of 3 July 1949, which was agreed to by the parties as an authoritative comment on article V of the General Armistice Agreement between Israel and Syria:

"The question of civil administration in villages and settlements in the demilitarized zone is provided for, within the framework of an Armistice Agreement, in sub-paragraphs 5 (b) and 5 (f) of the draft article. Such civil administration, including policing, will be on a local basis, without raising general questions of administration, jurisdiction, citizenship, and sovereignty.

"Where Israeli civilians return to or remain in an Israeli village or settlement, the civil administra-

tion and policing of the village or settlement will be by Israelis. Similarly, where Arab civilians return to or remain in an Arab village, a local Arab administration and police unit will be authorized.

"As civilian life is gradually restored, administration will take shape on a local basis under the general supervision of the Chairman of the Mixed Armistice Commission.

"The Chairman of the Mixed Armistice Commission, in consultation and co-operation with the local communities, will be in a position to authorize all necessary arrangements for the restoration and protection of civilian life. He will not assume responsibility for direct administration of the zone.'

"Recalls to the Governments of Syria and Israel their obligations under Article 2, paragraph 4, of the Charter of the United Nations and their commitments under the Armistice Agreement not to resort to military force and finds that:

"(a) Aerial action taken by the forces of the Government of Israel on 5 April 1951, and

"(b) Any aggressive military action by either of the parties in or around the demilitarized zone, which further investigation by the Chief of Staff of the Truce Supervision Organization into the reports and complaints recently submitted to the Council may establish,

"constitute a violation of the cease-fire provision provided in the Security Council resolution of 15 July 1948 and are inconsistent with the terms of the Armistice Agreement and the obligations assumed under the Charter;

"Noting the complaint with regard to the evacuation of Arab residents from the demilitarized zone;

"(a) Decides that Arab civilians who have been removed from the demilitarized zone by the Government of Israel should be permitted to return forthwith to their homes and that the Mixed Armistice Commission should supervise their return and rehabilitation in a manner to be determined by the Commission; and

"(b) Holds that no action involving the transfer of persons across international frontiers, armistice lines or within the demilitarized zone should be undertaken without prior decision of the Chairman of the Mixed Armistice Commission.

"Noting with concern the refusal on a number of occasions to permit observers and officials of the Truce Supervision Organization to enter localities and areas which were subjects of complaints in order to perform their legitimate functions, considers that the parties should permit such entry at all times whenever this is required, to enable the Truce Supervision Organization to fulfil its functions, and should render every facility which may be requested by the Chairman of the Mixed Armistice Commission for this purpose;

"Reminds the parties of their obligations under the Charter of the United Nations to settle their international disputes by peaceful means in such manner that international peace and security are not endangered, and expresses its concern at the failure of the Governments of Israel and Syria to achieve progress pursuant to their commitments

under the Armistice Agreement to promote the return to permanent peace in Palestine;

"Directs the Chief of Staff of the Truce Supervision Organization to take the necessary steps to give effect to this resolution for the purpose of restoring peace in the area, and authorizes him to take such measures to restore peace in the area and to make such representations to the Governments of Israel and Syria as he may deem necessary;

"Calls upon the Chief of Staff of the Truce Supervision Organization to report to the Security Council on compliance given to the present resolution:

"Requests the Secretary-General to furnish such additional personnel and assistance as the Chief of Staff of the Truce Supervision Organization may request in carrying out the present resolution and the Council's resolutions of 8 May 1951 and 17 November 1950."

Decision of 1 September 1951 (558th meeting): Calling upon Egypt to terminate the restrictions on the passage of international commercial shipping through the Suez Canal

By letter dated 11 July 1951,⁵¹⁴ the permanent representative of Israel requested that the following item be placed on the agenda of the Council for urgent discussion:

"Restrictions imposed by Egypt on the passage of ships through the Suez Canal."

He stated that the Government of Egypt, in contravention of international law, of the Suez Canal Convention of 1888 and of the Egyptian-Israeli Armistice Agreement of 1949, continued to detain, visit and search ships seeking to pass through the Suez Canal on the grounds that their cargoes were destined for Israel. In his report to the Council,⁵¹⁵ the Chief of Staff of the Truce Supervision Organization had characterized such interference as an aggressive and hostile action contrary to the spirit of the Armistice Agreement. The Government of Israel was bringing the question to the Council as a matter endangering the peace and security of the Middle East.

At the 549th meeting on 26 July 1951, the Council decided to include the complaint in the agenda under the general heading: "The Palestine question".⁵¹⁶

The question was considered by the Council at the 549th to 553rd meetings between 26 July and 16 August 1951, 555th meeting on 27 August, 556th meeting on 29 August and 558th meeting on 1 September 1951.

The representative of Egypt contended at the 549th, 550th and 553rd meetings that Egypt was not violating the Armistice Agreement, that the Egyptian-Israeli Special Committee established by the Armistice Agreement had made a final decision on 12 June 1951⁵¹⁷ denying the right of the Mixed Armistice Commission to demand from the Egyptian Government that it

should not interfere with the passage of goods to Israel through the Suez Canal, and that the Israel complaint was non-receivable.

At the 552nd meeting on 16 August, the representatives of France, the United Kingdom and the United States submitted a joint draft resolution, which was revised at the 553rd meeting on the same day.⁵¹⁸

At the 558th meeting on 1 September, the revised joint draft resolution was adopted by 8 votes in favour, none against, with 3 abstentions.⁵¹⁹ The resolution⁵²⁰ read as follows:

"The Security Council,

"1. Recalling that in its resolution of 11 August 1949 (S/1376) relating to the conclusion of Armistice Agreements between Israel and the neighboring Arab States it drew attention to the pledges in these Agreements 'against any further acts of hostility between the Parties',

"2. Recalling further that in its resolution of 17 November 1950 (S/1907) it reminded the States concerned that the Armistice Agreements to which they were parties contemplated 'the return of permanent peace in Palestine', and therefore urged them and the other States in the area to take all such steps as would lead to the settlement of the issues between them,

"3. Noting the report of the Chief of Staff of the Truce Supervision Organization to the Security Council of 12 June 1951 (S/2194),

"4. Further noting that the Chief of Staff of the Truce Supervision Organization recalled the statement of the senior Egyptian delegate in Rhodes on 13 January 1949, to the effect that his delegation was 'inspired with every spirit of co-operation, conciliation and sincere desire to restore peace in Palestine', and that the Egyptian Government has not complied with the earnest plea of the Chief of Staff made to the Egyptian delegate on 12 June 1951, that it desist from the present practice of interfering with the passage through the Suez Canal of goods destined for Israel,

"5. Considering that since the armistice regime, which has been in existence for nearly two and a half years, is of a permanent character, neither party can reasonably assert that it is actively a belligerent or requires to exercise the right of visit, search, and seizure for any legitimate purpose of self-defence,

"6. Finds that the maintenance of the practice mentioned in paragraph 4 above is inconsistent with the objectives of a peaceful settlement between the parties and the establishment of a permanent peace in Palestine set forth in the Armistice Agreement;

"7. Finds further that such practice is an abuse of the exercise of the right of visit, search and seizure;

"8. Further finds that the practice cannot in the prevailing circumstances be justified on the ground that it is necessary for self-defence;

⁵¹⁴ S/2241, O.R., 6th year, Suppl. for July-Sept. 1951, pp. 9-10.

⁵¹⁵ S/2194, O.R., 6th year, Suppl. for April-June 1951, pp. 162-164.

⁵¹⁶ 549th meeting: p. 1.

⁵¹⁷ S/2194, O.R., 6th year, Suppl. for April-June 1951, pp. 162-164.

⁵¹⁸ S/2298/Rev.1, 558th meeting: pp. 2-3.

⁵¹⁹ 558th meeting: p. 3.

⁵²⁰ S/2322. For the preceding discussion concerning the applicability of Article 51, see chapter XI, Case 21. For objection to the draft resolution as contrary to the Purposes and Principles of the Charter, see Chapter XII, Case 24.

"9. *And further noting that the restrictions on the passage of goods through the Suez Canal to Israel ports are denying to nations at no time connected with the conflict in Palestine valuable supplies required for their economic reconstruction, and that these restrictions together with sanctions applied by Egypt to certain ships which have visited Israel ports represent unjustified interference with the rights of nations to navigate the seas and to trade freely with one another, including the Arab States and Israel;*

"10. *Calls upon Egypt to terminate the restrictions on the passage of international commercial shipping and goods through the Suez Canal wherever bound and to cease all interference with such shipping beyond that essential to the safety of shipping in the Canal itself and to the observance of the international conventions in force.*"

The Palestine question remained on the list of matters of which the Security Council is seized.

THE INDIA-PAKISTAN QUESTION⁵²¹

INITIAL PROCEEDINGS

On 1 January 1948, the Government of India reported to the Security Council details of a situation existing between India and Pakistan owing to the aid which invaders, consisting of nationals of Pakistan and tribesmen from the territory immediately adjoining Pakistan on the north-west, were drawing from Pakistan for operations against Jammu and Kashmir, a State which, having acceded to the Dominion of India, the Government of India declared to be part of India. The Government of India considered the giving of this assistance by Pakistan to be an act of aggression against India, and likely to endanger the maintenance of international peace and security, since in self-defence India might be compelled to enter Pakistan territory in order to take military action against the invaders. The Government of India, being anxious to proceed according to the principles and aims of the Charter, brought the situation to the attention of the Security Council under Article 35 of the Charter.⁵²²

On 15 January 1948 the Government of Pakistan emphatically denied that they were giving aid and assistance to the so-called invaders, or had committed any act of aggression against India. The Azad (Free) Kashmir Government was struggling for liberty, and was possibly being helped by a certain number of independent tribesmen and persons from Pakistan as volunteers. The complaint of India under Article 35 of the Charter contained a threat of direct attack against Pakistan. Under Article 35 of the Charter the Government of Pakistan further brought to the attention of the Security Council a situation existing between India and Pakistan which had already given rise to disputes tending to endanger the maintenance of international peace and security. The Pakistan Government had unsuccessfully tried over a period of many months to seek a solution of the dispute by the

methods described in Article 33 of the Charter. The main points of the charges concerned India's action in the State of Jammu and Kashmir, the unlawful occupation of the State of Junagadh and other States by Indian forces, the mass destruction of Muslims in a prearranged programme of genocide, and failure to implement agreements between the two countries.⁵²³

The question was included in the agenda at the 226th meeting on 6 January 1948 under the title "The Jammu and Kashmir question".⁵²⁴

The Security Council considered the question at the 226th-232nd, 234th-237th, 239th-246th, 250th-257th, 264th-266th, 269th, 284th-287th, 289th, 290th, 304th, 305th, 311th, 312th, 315th, 382nd, 399th, 457th, 458th, 463rd-471st, 532nd-540th, 543rd, 564th and 566th meetings, between 6 January 1948 and 31 December 1951.

Decision of 17 January 1948 (229th meeting): Request to the two parties not to take any steps which might aggravate the situation

By cablegram dated 6 January 1948, the President (Belgium) asked the Governments of India and Pakistan to refrain from any step incompatible with the Charter and liable to result in an aggravation of the situation, thereby rendering more difficult any action by the Security Council.⁵²⁴

At the 227th meeting on 15 January 1948, the representative of India* declared that, having failed to achieve a settlement of the question through negotiations with the Government of Pakistan, the Government of India had to invoke the assistance of the Council to persuade the Government of Pakistan not to give direct or indirect aid to forces fighting in the State of Jammu and Kashmir.⁵²⁵

At the 228th and 229th meetings on 16 and 17 January respectively, the representative of Pakistan* declared that it was impossible to appraise the issues referred to the Council under Article 35 of the Charter without direct reference to the background of the matter, which he proceeded to state in some detail. He declared that the Jammu-Kashmir Government had refused or ignored offers of friendly discussions and had called in Indian troops without informing Pakistan of its intended action. He called for the evacuation of all elements foreign to the State, including tribesmen and Indian army troops as the best step to a solution of the question.⁵²⁶

At the 229th meeting on 17 January, the President submitted a draft resolution⁵²⁷ which, with one amendment to the preamble, was adopted by 9 votes in favour and none against, with 2 abstentions.⁵²⁸ The resolution⁵²⁹ read as follows:

"The Security Council,

"Having heard statements on the situation in Kashmir from representatives of the Governments of India and Pakistan,

⁵²³ S/646, and Corr.1, O.R., 3rd year, Suppl. for Nov. 1948, pp. 67-87.

⁵²⁴ S/636, 226th meeting: p. 4.

⁵²⁵ 227th meeting: pp. 11-28.

⁵²⁶ 228th and 229th meetings: pp. 90-120.

⁵²⁷ 229th meeting: pp. 120-121.

⁵²⁸ 229th meeting: p. 125. For the President's consultation with the parties, see chapter I, Case 26.

⁵²⁹ S/651.

⁵²¹ For the claim of the right of self-defence in conformity with Article 51 in connexion with this question, see chapter XI, Case 20.

⁵²² S/628, O.R., 3rd year, Suppl. for Nov. 1948, pp. 139-144.

"Recognizing the urgency of the situation,

"Taking note of the telegram addressed on 6 January by its President to each of the parties and of their replies thereto; and in which they affirmed their intention to conform to the Charter,

"Calls upon both the Government of India and the Government of Pakistan to take immediately all measures within their power (including public appeals to their people) calculated to improve the situation, and to refrain from making any statements and from doing or causing to be done or permitting any acts which might aggravate the situation;

"And further requests each of those Governments to inform the Council immediately of any material change in the situation which occurs or appears to either of them to be about to occur while the matter is under consideration by the Council, and consult with the Council thereon."

At the same meeting, at the suggestion of the representative of the United Kingdom, it was further decided that discussion of the question be adjourned until 20 January 1948 and that, during the interim period, the President should hold joint discussions with the representatives of India and Pakistan.⁵³⁰

Decision of 20 January 1948 (230th meeting): Establishment of the United Nations Commission

At the 230th meeting on 20 January, the President, as the representative of Belgium, submitted a draft resolution⁵³¹ which was adopted at the same meeting by 9 votes in favour and none against, with 2 abstentions.⁵³² The resolution read as follows:

"The Security Council,

"Considering that it may investigate any dispute or any situation which might, by its continuance, endanger the maintenance of international peace and security; that, in the existing state of affairs between India and Pakistan, such an investigation is a matter of urgency,

"Adopts the following resolution:

"A. A Commission 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.

"Each representative on the Commission shall be entitled to select his alternates and assistants.

"B. The Commission shall proceed to the spot as quickly as possible. It shall act under the authority of the Security Council and in accordance with the directions it may receive from it. It shall keep the Security Council currently informed of its activities and of the development of the situation. It shall report to the Security Council regularly, submitting its conclusions and proposals.

⁵³⁰ 229th meeting: pp. 125-128. See chapter X, Case 5, for these conversations in relation to Article 33.

⁵³¹ S/654, 230th meeting: pp. 129-131.

⁵³² 230th meeting: p. 143. For discussion in relation to Article 34, see chapter X, Case 16. On the working of the Commission, see Organization and Procedure of United Nations Commissions: XI. The United Nations Commission for India and Pakistan (United Nations publications, 1950.X.1). See also chapter V, Case 6.

"C. The Commission is invested with a dual function:

"(1) to investigate the facts pursuant to Article 34 of the Charter;

"(2) to exercise, without interrupting the work of the Security Council, any mediatory influence likely to smooth away difficulties; to carry out the directions given to it by the Security Council; and to report how far the advice and directions, if any, of the Security Council have been carried out.

"D. The Commission shall perform the functions described in clause C:

"(1) in regard to the situation in the Jammu and Kashmir State set out in the letter of the Representative of India addressed to the President of the Security Council, dated 1 January 1948, and in the letter from the Minister of Foreign Affairs of Pakistan addressed to the Secretary-General, dated 15 January 1948; and

"(2) in regard to other situations set out in the letter from the Minister of Foreign Affairs of Pakistan addressed to the Secretary-General, dated 15 January 1948, when the Security Council so directs.

"E. The Commission shall take its decision by majority vote. It shall determine its own procedure. It may allocate among its members, alternate members, their assistants, and its personnel such duties as may have to be fulfilled for the realization of its mission and the reaching of its conclusions.

"F. The Commission, its members, alternate members, their assistants and its personnel, shall be entitled to journey, separately or together, wherever the necessities of their tasks may require, and, in particular, within those territories which are the theatre of the events of which the Security Council is seized.

"G. The Secretary-General of the United Nations shall furnish the Commission with such personnel and assistance as it may consider necessary."

Decision of 22 January 1948 (231st meeting): Adoption of agenda changing the title to "India-Pakistan question"

On 20 January 1948, the Government of Pakistan requested consideration of matters in the Pakistan complaint other than the Jammu-Kashmir question. At the 231st meeting on 22 January 1948, the title in the agenda "Jammu and Kashmir question" was altered to the "India-Pakistan question", with the understanding that the Kashmir question would be discussed first as a particular case of the India-Pakistan dispute, though this would not mean that consideration of the issues in the Pakistan complaint would be postponed until consideration of the Kashmir question had been completed.⁵³³ The President (Belgium), after further negotiations with the parties,⁵³⁴ submitted draft resolutions at the 237th meeting. The request of India to adjourn proceedings was discussed at the 243rd-246th meetings, and the Council thereafter discussed other aspects of the question.

⁵³³ S/655, 231st meeting: pp. 143-168. See chapter II, Case 42.

⁵³⁴ See chapter I, Case 27. Draft resolutions submitted were S/661, S/662, S/667, S/671 and S/679.

Decision of 21 April 1948 (286th meeting): Modification of instructions to the United Nations Commission for India and Pakistan

On the return of the Indian delegation the Council continued consideration of the question. The draft resolutions submitted to the Council eventually were replaced at the 284th meeting on 17 April by a joint draft resolution submitted by the representatives of Belgium, Canada, China, Colombia, the United Kingdom and the United States,⁵³⁵ which was voted upon paragraph by paragraph and adopted at the 286th meeting on 21 April 1948.⁵³⁶ The resolution read as follows:⁵³⁷

"The Security Council,

"Having considered the complaint of the Government of India concerning the dispute over the State of Jammu and Kashmir,

"Having heard the representative of India in support of that complaint and the reply and counter complaints of the representative of Pakistan,

"Being strongly of opinion that the early restoration of peace and order in Jammu and Kashmir is essential and that India and Pakistan should do their utmost to bring about a cessation of all fighting,

"Noting with satisfaction that both India and Pakistan desire that the question of the accession of Jammu and Kashmir to India or Pakistan should be decided through the democratic method of a free and impartial plebiscite,

"Considering that the continuation of the dispute is likely to endanger international peace and security,

"Reaffirms the Council's resolution of 17 January,

"Resolves that the membership of the Commission established by the resolution of the Council of 20 January 1948 shall be increased to five and shall include in addition to the membership mentioned in that resolution, representatives of _____ and _____, and that if the membership of the Commission has not been completed within ten days from the date of the adoption of this resolution the President of the Council may designate such other Member or Members of the United Nations as are required to complete the membership of five;

"Instructs the Commission to proceed at once to the Indian sub-continent and there place its good offices and mediation at the disposal of the Governments of India and Pakistan with a view to facilitating the taking of the necessary measures, both with respect to the restoration of peace and order and to the holding of a plebiscite, by the two Governments, acting in co-operation with one another and with the Commission, and further instructs the Commission to keep the Council informed of the action taken under the resolution, and to this end,

"Recommends to the Governments of India and Pakistan the following measures as those which in

⁵³⁵ 284th meeting: p. 2; S/726, O.R., 3rd year, Suppl. for April 1948, pp. 8-12.

⁵³⁶ 286th meeting: pp. 9-40.

⁵³⁷ India and Pakistan communicated their views on the resolution in S/734/Corr.1 and in S/735 respectively (O.R., 3rd year, Suppl. for Nov. 1948, p. 66, and for May 1948, pp. 40-42). For communications between the Secretary-General and India regarding the plebiscite administrator, see S/756 (O.R., 3rd year, Suppl. for May 1948, pp. 92-93).

the opinion of the Council are appropriate to bring about a cessation of the fighting and to create proper conditions for a free and impartial plebiscite to decide whether the State of Jammu and Kashmir is to accede to India or Pakistan.

"A. Restoration of peace and order

"1. The Government of Pakistan should undertake to use its best endeavours:

"(a) To secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistani nationals not normally resident therein who have entered the State for the purposes of fighting, and to prevent any intrusion into the State of such elements and any furnishing of material aid to those fighting in the State;

"(b) To make known to all concerned that the measures indicated in this and the following paragraphs provide full freedom to all subjects of the State, regardless of creed, caste, or party, to express their views and to vote on the question of the accession of the State, and that therefore they should co-operate in the maintenance of peace and order.

"2. The Government of India should:

"(a) When it is established to the satisfaction of the Commission set up in accordance with the Council's Resolution of 20 January that the tribesmen are withdrawing and that arrangements for the cessation of the fighting have become effective, put into operation in consultation with the Commission a plan for withdrawing their own forces from Jammu and Kashmir and reducing them progressively to the minimum strength required for the support of the civil power in the maintenance of law and order;

"(b) Make known that the withdrawal is taking place in stages and announce the completion of each stage;

"(c) When the Indian forces shall have been reduced to the minimum strength mentioned in (a) above, arrange in consultation with the Commission for the stationing of the remaining forces to be carried out in accordance with the following principles:

"(i) That the presence of troops should not afford any intimidation or appearance of intimidation to the inhabitants of the State;

"(ii) That as small a number as possible should be retained in forward areas;

"(iii) That any reserve of troops which may be included in the total strength should be located within their present base area.

"3. The Government of India should agree that, until such time as the Plebiscite Administration referred to below finds it necessary to exercise the powers of direction and supervision over the State forces and police provided for in paragraph 8, they will be held in areas to be agreed upon with the Plebiscite Administrator.

"4. After the plan referred to in paragraph 2 (a) above has been put into operation, personnel recruited locally in each district should so far as possible be utilized for the re-establishment and maintenance of law and order with due regard to

protection of minorities, subject to such additional requirements as may be specified by the Plebiscite Administration referred to in paragraph 7.

"5. If these local forces should be found to be inadequate, the Commission, subject to the agreement of both the Government of India and the Government of Pakistan, should arrange for the use of such forces of either Dominion as it deems effective for the purpose of pacification.

"B. *Plebiscite*

"6. The Government of India should undertake to ensure that the Government of the State invite the major political groups to designate responsible representatives to share equitably and fully in the conduct of the administration at the Ministerial level, while the plebiscite is being prepared and carried out.

"7. The Government of India should undertake that there will be established in Jammu and Kashmir a Plebiscite Administration to hold a plebiscite as soon as possible on the question of the accession of the State to India or Pakistan.

"8. The Government of India should undertake that there will be delegated by the State to the Plebiscite Administration such powers as the latter considers necessary for holding a fair and impartial plebiscite including, for that purpose only, the direction and supervision of the State forces and police.

"9. The Government of India should, at the request of the Plebiscite Administration, make available from the Indian forces such assistance as the Plebiscite Administration may require for the performance of its functions.

"10. (a) The Government of India should agree that a nominee of the Secretary-General of the United Nations will be appointed to be the Plebiscite Administrator.

"(b) The Plebiscite Administrator, acting as an officer of the State of Jammu and Kashmir, should have authority to nominate his assistants and other subordinates and to draft regulations governing the plebiscite. Such nominees should be formally appointed and such draft regulations should be formally promulgated by the State of Jammu and Kashmir.

"(c) The Government of India should undertake that the Government of Jammu and Kashmir will appoint fully qualified persons nominated by the Plebiscite Administrator to act as special magistrates within the State judicial system to hear cases which in the opinion of the Plebiscite Administrator have a serious bearing on the preparation for and the conduct of a free and impartial plebiscite.

"(d) The terms of service of the Administrator should form the subject of a separate negotiation between the Secretary-General of the United Nations and the Government of India. The Administrator should fix the terms of service for his assistants and subordinates.

"(e) The Administrator should have the right to communicate directly with the Government of the State and with the Commission of the Security Council and, through the Commission, with the

Security Council, with the Governments of India and Pakistan and with their representatives with the Commission. It would be his duty to bring to the notice of any or all of the foregoing (as he in his discretion may decide) any circumstances arising which may tend, in his opinion, to interfere with the freedom of the plebiscite.

"11. The Government of India should undertake to prevent, and to give full support to the Administrator and his staff in preventing, any threat, coercion or intimidation, bribery or other undue influence on the voters in the plebiscite, and the Government of India should publicly announce and should cause the Government of the State to announce this undertaking as an international obligation binding on all public authorities and officials in Jammu and Kashmir.

"12. The Government of India should themselves and through the Government of the State declare and make known that all subjects of the State of Jammu and Kashmir, regardless of creed, caste or party, will be safe and free in expressing their views and in voting on the question of the accession of the State and that there will be freedom of the Press, speech and assembly and freedom of travel in the State, including freedom of lawful entry and exit.

"13. The Government of India should use and should ensure that the Government of the State also use their best endeavours to effect the withdrawal from the State of all Indian nationals other than those who are normally resident therein or who on or since 15 August 1947 have entered it for a lawful purpose.

"14. The Government of India should ensure that the Government of the State release all political prisoners and take all possible steps so that:

"(a) All citizens of the State who have left it on account of disturbances are invited, and are free, to return to their homes and to exercise their rights as such citizens;

"(b) There is no victimization;

"(c) Minorities in all parts of the State are accorded adequate protection.

"15. The Commission of the Security Council should at the end of the plebiscite certify to the Council whether the plebiscite has or has not been really free and impartial.

"C. *General Provisions*

"16. The Governments of India and Pakistan should each be invited to nominate a representative to be attached to the Commission for such assistance as it may require in the performance of its task.

"17. The Commission should establish in Jammu and Kashmir such observers as it may require of any of the proceedings in pursuance of the measures indicated in the foregoing paragraphs.

"18. The Security Council Commission should carry out the tasks assigned to it herein."

Decision of 23 April 1948 (287th meeting): Nomination of members of the United Nations Commission

At the 287th meeting on 23 April 1948, the Council added Belgium and Colombia⁵³⁸ to the United Nations Commission for India and Pakistan.

At the 289th meeting on 7 May the President (France) nominated the United States⁵³⁹ as the fifth member of the Commission.⁵⁴⁰

Decision of 3 June 1948 (312th meeting): Instructions to the Commission

After further consideration, beginning at the 289th meeting on 7 May 1948, of other matters in the India-Pakistan question, the President (Syria) stated at the 312th meeting on 3 June that the best solution would be to enlarge the Commission's terms of reference to cover these matters, so that at a later date they could either be dealt with by the Commission or taken up again in the Council. He submitted a draft resolution which, with an amendment submitted by the representative of the United Kingdom, was adopted at the same meeting by 8 votes in favour and none against, with 3 abstentions.⁵⁴¹ The resolution⁵⁴² read as follows:

"The Security Council

Reaffirms its resolutions of 17 January 1948, 20 January 1948 and 21 April 1948;

Directs the Commission 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,

And directs the Commission further to study and report to the Security Council when it considers it appropriate on the matters raised in the letter of the Foreign Minister of Pakistan, dated 15 January 1948, in the order outlined in Paragraph D of the resolution of the Council dated 20 January 1948."

Decision of 8 June 1948 (315th meeting): Explanation of Council's resolution of 3 June 1948

At the 315th meeting on 8 June 1948, the President (Syria) stated that he had received a letter from the representative of India⁵⁴³ conveying a message from the Prime Minister of India expressing the surprise of his Government that the Council should have thought fit, in its resolution of 3 June 1948, to direct the Commission to study and report on matters other than the Jammu and Kashmir question.

At the suggestion of the representative of China, the Council agreed that the President should reply to the Indian Prime Minister explaining that "what the Security Council did . . . was to tell the Commission to go ahead, to deal first with the Kashmir question, and then, when it deemed it appropriate, to study and

report on the other three questions raised by the delegation of Pakistan".⁵⁴⁴

Decision of 25 November 1948 (382nd meeting): Expression of support for the United Nations Commission and endorsement of its appeal to both parties to refrain from any prejudicial action

The Commission proceeded to the sub-continent of India in July 1948 and submitted an Interim Report on 9 November 1948.⁵⁴⁵ The report was discussed at the 382nd meeting of the Council on 25 November 1948.

The representative of Pakistan* informed the Council that Pakistan forces, which had entered Kashmir during the previous six months, had taken a purely defensive action, but recent Indian military advances in Kashmir might force Pakistan to take new military counter measures.

The Council agreed, on the suggestion of the President (Argentina), that he convey to the Commission the following: "Firstly, it (the Security Council) desires to inform the Commission appointed to intervene in the dispute between India and Pakistan that it (the Commission) can count on the full support of the Security Council and that the Council wishes it to continue its work for the purpose of arriving at a peaceful solution. Secondly, it desires to bring to the attention of the Governments of India and Pakistan the need for refraining from any action which might aggravate the military or the political situation and consequently prejudice the negotiations which are at present being carried on for the purpose of arriving at a final and peaceful understanding in the matter."⁵⁴⁶

Decision of 13 January 1949 (399th meeting): Instructions to the United Nations Commission to return to the sub-continent of India

The Commission obtained a suspension of hostilities in the state of Jammu and Kashmir, and the cease-fire order came into effect on 1 January 1949.

By letter dated 10 January 1949, the Chairman and the Rapporteur of the Commission forwarded to the President of the Council the Commission's Second Interim Report covering the period of the Commission's activities from 25 September 1948 to 5 January 1949, when it adopted a resolution embodying the basic principles for a plebiscite in the state of Jammu and Kashmir.⁵⁴⁷

At the 399th meeting on 13 January 1949, the Council considered the report and the President (Canada) expressed the view of the Council that the Commission should "return to the sub-continent of India, at its earliest convenience, in order to continue the work which it has already so far advanced".⁵⁴⁸

Decision of 17 December 1949 (457th meeting): Request to the President of the Council to meet informally with the two parties

At the 457th meeting on 17 December, the Third Interim Report of the United Nations Commission was

⁵³⁸ 287th meeting: p. 3.

⁵³⁹ 289th meeting: p. 8.

⁵⁴⁰ By letter (S/669) dated 10 February 1948, the representative of India had transmitted a message to the Secretary-General from the Prime Minister of India naming Czechoslovakia as his Government's nominee on the Commission. By letter (S/735) dated 30 April 1948, addressed to the President of the Security Council, the Foreign Minister of Pakistan stated that his Government had nominated Argentina as Pakistan's nominee on the Commission.

⁵⁴¹ 312th meeting: pp. 16-21.

⁵⁴² S/819, 312th meeting: p. 21.

⁵⁴³ S/825, O.R., 3rd year, Suppl. for June 1948, pp. 78-79.

⁵⁴⁴ 315th meeting: pp. 2-7.

⁵⁴⁵ S/1100, O.R., 3rd year, Suppl. for Nov. 1948, pp. 17-144.

⁵⁴⁶ 382nd meeting: pp. 2-26.

⁵⁴⁷ S/1196, O.R., 4th year, Suppl. for Jan. 1949.

⁵⁴⁸ 399th meeting: p. 8.

presented to the Council by the Chairman of the Commission.⁵⁴⁹ The Commission considered that a single person could more effectively conduct further negotiations. He should be given broad authority to endeavour to bring the two Governments together on all issues and should have an undivided responsibility. The representative of Czechoslovakia on the Commission submitted a minority report⁵⁵⁰ recommending the establishment of a new commission, composed of representatives of all States members of the Security Council, to carry out its mediation task without delay, at Headquarters, and the parties availing themselves of the opportunity to reach an understanding as to differences in connexion with the Commission's resolutions of 13 August 1948 and 5 January 1949.

At the same meeting, the Council by a vote of 9 in favour and none against, with 2 abstentions, adopted a suggestion by the representative of Norway, that the President (Canada) should meet informally with the representatives of India and Pakistan, examine the possibilities of finding a mutually satisfactory basis and report to the Security Council.⁵⁵¹

At the 458th meeting on 29 December, the Council heard from its President (Canada), General McNaughton, an account of his talks with the representatives of India and Pakistan and agreed that he should continue his negotiations with the two parties, if necessary, even after the expiration of his term of office as President of the Council on 31 December 1949.⁵⁵²

Decision of 14 March 1950 (470th meeting): Appointment of a United Nations Representative for India and Pakistan

In response to an invitation agreed upon by the Security Council at its 462nd meeting on 17 January 1950,⁵⁵³ General McNaughton on 3 February 1950 communicated a full report of his negotiations with the parties since 17 December 1949.

At its 463rd meeting on 7 February, the Council began consideration of General McNaughton's report.⁵⁵⁴

At the 467th meeting on 24 February, the representatives of Cuba, Norway, the United Kingdom and the United States submitted a joint draft resolution⁵⁵⁵ which was adopted at the 470th meeting on 14 March by 8 votes in favour and none against, with 2 abstentions.⁵⁵⁶

The resolution read as follows:

"Having received and noted the reports of the United Nations Commission for India and Pakistan, established by the resolutions of 20 January and 21 April 1948;

"Having also received and noted the report of General A. G. L. McNaughton on the outcome of his discussions with the representatives of India and

Pakistan which were initiated in pursuance of the decision taken by the Security Council on 17 December 1949;

"Commending the Governments of India and Pakistan for their statesmanlike action in reaching the agreements embodied in the United Nations Commission's resolutions of 13 August 1948 and 5 January 1949 for a cease fire, for the demilitarization of the State of Jammu and Kashmir and for the determination of its final disposition in accordance with the will of the people through the democratic method of a free and impartial plebiscite and commending the parties in particular for their action in partially implementing these resolutions by

"(1) The cessation of hostilities effected 1 January 1949

"(2) The establishment of a cease-fire line on 27 July 1949 and

"(3) The agreement that Fleet Admiral Chester W. Nimitz shall be Plebiscite Administrator,

"Considering that the resolution of the outstanding difficulties should be based upon the substantial measure of agreement on fundamental principles already reached, and that steps should be taken forthwith for the demilitarization of the State and for the expeditious determination of its future in accordance with the freely expressed will of the inhabitants;

"The Security Council,

"1. Calls upon the Governments of India and Pakistan to make immediate arrangements, without prejudice to their rights or claims and with due regard to the requirements of law and order, to prepare and execute within a period of five months from the date of this resolution a programme of demilitarization on the basis of the principles of paragraph 2 of General McNaughton's proposal or of such modifications of those principles as may be mutually agreed;

"2. Decides to appoint a United Nations Representative for the following purposes who shall have authority to perform his functions in such place or places as he may deem appropriate:

"(a) To assist in the preparation and to supervise the implementation of the programme of demilitarization referred to above and to interpret the agreements reached by the parties for demilitarization,

"(b) To place himself at the disposal of the Governments of India and Pakistan and to place before those Governments or the Security Council any suggestions which, in his opinion, are likely to contribute to the expeditious and enduring solution of the dispute which has arisen between the two Governments in regard to the State of Jammu and Kashmir,

"(c) To exercise all of the powers and responsibilities devolving upon the United Nations Commission by reason of existing resolutions of the Security Council and by reason of the agreement of the parties embodied in the resolutions of the United Nations Commission of 13 August 1948 and 5 January 1949,

⁵⁴⁹ S/1430/Rev.1, O.R., 4th year, Special Suppl. No. 7.

⁵⁵⁰ S/1430/Add.3, O.R., 4th year, Special Suppl. No. 7, pp. 195-204.

⁵⁵¹ 457th meeting: pp. 5-8.

⁵⁵² 458th meeting: pp. 4-21. See chapter I, Cases 31 and 32.

⁵⁵³ 462nd meeting: p. 16.

⁵⁵⁴ S/1453, O.R., 5th year, Suppl. for Jan.-May 1950, pp. 3-16.

⁵⁵⁵ S/1469.

⁵⁵⁶ 470th meeting: p. 4. One member was absent. On the United Nations Representative for India and Pakistan, see chapter V, Case 8.

“(d) to arrange at the appropriate stage of demilitarization for the assumption by the Plebiscite Administrator of the functions assigned to the latter under agreements made between the parties,

“(e) to report to the Security Council as he may consider necessary submitting his conclusions and any recommendations which he may desire to make;

“3. *Requests* the two Governments to take all necessary precautions to ensure that their agreements regarding the cease fire shall continue to be faithfully observed, and *calls upon* them to take all possible measures to ensure the creation and maintenance of an atmosphere favourable to the promotion of further negotiations;

“4. *Extends* its best thanks to the members of the United Nations Commission for India and Pakistan and to General A. G. L. McNaughton for their arduous and fruitful labours;

“5. *Agrees* that the United Nations Commission for India and Pakistan shall be terminated, and decides that this shall take place one month after both parties have informed the United Nations Representative of their acceptance of the transfer to him of the powers and responsibilities of the United Nations Commission referred to in paragraph 2 (c) above.”

At the 471st meeting on 12 April 1950, the Council appointed Sir Owen Dixon of Australia as United Nations Representative for India and Pakistan by 8 votes in favour, none against, with 2 abstentions.⁵⁵⁷

Decision of 30 March 1951 (539th meeting): Appointment of a United Nations Representative for India and Pakistan in succession to Sir Owen Dixon: instructions to the United Nations Representative

By letter dated 15 September 1950,⁵⁵⁸ Sir Owen Dixon, United Nations Representative for India and Pakistan, transmitted his report to the Council and requested formal termination of his position as United Nations Representative.

At the 532nd meeting on 21 February 1951, when the Council took up for consideration the report of the United Nations Representative, the representatives of the United Kingdom and the United States submitted a joint draft resolution which, as revised on 21 March,⁵⁵⁹ was adopted at the 539th meeting on 30 March 1951 by 8 votes in favour and none against, with 3 abstentions.⁵⁶⁰ The resolution read as follows:

“*The Security Council,*

“*Having received and noted* the report of Sir Owen Dixon, the United Nations Representative for India and Pakistan, on his mission initiated by the Security Council resolution of 14 March 1950,

“*Observing* that the Governments of India and Pakistan have accepted the provisions of the United Nations Commission for India and Pakistan resolutions of 13 August 1948 and 5 January 1949, and

have reaffirmed their desire that the future of the State of Jammu and Kashmir shall be decided through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations,

“*Observing* that on 27 October 1950 the General Council of the ‘All Jammu and Kashmir National Conference’ adopted a resolution recommending the convening of a constituent assembly for the purpose of determining the ‘future shape and affiliations of the State of Jammu and Kashmir’; observing further from statements of responsible authorities that action is proposed to convene such a constituent assembly and that the area from which such a constituent assembly would be elected is only a part of the whole territory of Jammu and Kashmir,

“*Reminding* the Governments and authorities concerned of the principle embodied in the Security Council resolutions of 21 April 1948, 3 June 1948 and 14 March 1950 and the United Nations Commission for India and Pakistan resolutions of 13 August 1948 and 5 January 1949, that the final disposition of the State of Jammu and Kashmir will be made in accordance with the will of the people expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations,

“*Affirming* that the convening of a constituent assembly as recommended by the General Council of the ‘All Jammu and Kashmir National Conference’, and any action that Assembly might attempt to take to determine the future shape and affiliation of the entire State or any part thereof would not constitute a disposition of the State in accordance with the above principle,

“*Declaring* its belief that it is the duty of the Security Council in carrying out its primary responsibility for the maintenance of international peace and security to aid the parties to reach an amicable solution of the Kashmir dispute and that a prompt settlement of this dispute is of vital importance to the maintenance of international peace and security,

“*Observing* from Sir Owen Dixon’s report that the main points of difference preventing agreement between the parties were:

“(a) The procedure for and the extent of demilitarization of the State preparatory to the holding of a plebiscite, and

“(b) The degree of control over the exercise of the functions of government in the State necessary to ensure a free and fair plebiscite,

“1. *Accepts*, in compliance with his request, Sir Owen Dixon’s resignation and expresses its gratitude to Sir Owen for the great ability and devotion with which he carried out his mission;

“2. *Decides* to appoint a United Nations Representative for India and Pakistan in succession to Sir Owen Dixon;

“3. *Instructs* the United Nations Representative to proceed to the sub-continent and, after consultation with the Governments of India and Pakistan,

⁵⁵⁷ 471st meeting: p. 5. One member was absent.

⁵⁵⁸ S/1791, O.R., 5th year, Suppl. for Sept.-Dec. 1950.

⁵⁵⁹ S/2017/Rev.1, O.R., 6th year, Suppl. for Jan.-March 1951, pp. 25-27; and Special Suppl. No. 2, pp. 24-26.

⁵⁶⁰ 539th meeting: p. 15.

to effect the demilitarization of the State of Jammu and Kashmir on the basis of the United Nations Commission for India and Pakistan resolutions of 13 August 1948 and 5 January 1949;

"4. *Calls upon* the parties to co-operate with the United Nations Representative to the fullest degree in effecting the demilitarization of the State of Jammu and Kashmir;

"5. *Instructs* the United Nations Representative to report to the Security Council within three months from the date of his arrival on the sub-continent; if, at the time of this report, he has not effected demilitarization in accordance with paragraph 3 above, or obtained the agreement of the parties to a plan for effecting such demilitarization, the United Nations Representative shall report to the Security Council those points of difference between the parties in regard to the interpretation and execution of the agreed resolutions of 13 August 1948 and 5 January 1949 which he considers must be resolved to enable such demilitarization to be carried out;

"6. *Calls upon* the parties, in the event of their discussions with the United Nations Representative failing in his opinion to result in full agreement, to accept arbitration upon all outstanding points of difference reported by the United Nations Representative in accordance with paragraph 5 above, such arbitration to be carried out by an arbitrator, or a panel of arbitrators, to be appointed by the President of the International Court of Justice after consultation with the parties;

"7. *Decides* that the military observer group shall continue to supervise the cease fire in the State;

"8. *Requests* the Governments of India and Pakistan to ensure that their agreement regarding the cease fire shall continue to be faithfully observed and calls upon them to take all possible measures to ensure the creation and maintenance of an atmosphere favourable to the promotion of further negotiations and to refrain from any action likely to prejudice a just and peaceful settlement;

"9. *Requests* the Secretary-General to provide the United Nations Representative for India and Pakistan with such services and facilities as may be necessary in carrying out the terms of this resolution."

At the 543rd meeting on 30 April 1951, the Council appointed Dr. Frank P. Graham as United Nations Representative for India and Pakistan by 7 votes to none, with 4 abstentions.⁵⁶¹

Decision of 29 May 1951 (548th meeting): Message from the President of the Security Council to the Governments of India and Pakistan concerning reports that a constituent assembly would be convoked in Kashmir

By letters dated 4 and 10 May 1951,⁵⁶² the representative of Pakistan brought to the attention of the

Council reports that the authorities in Jammu and Kashmir were convening a constituent assembly to decide the future of the state. The Council was requested to stop the course of action which would prejudice further negotiations between India and Pakistan and create an explosive situation.

At the 548th meeting on 29 May 1951, the President (Turkey) submitted to the Council a proposed text of the letter which various delegations suggested should be sent by him to the Governments of India and Pakistan.

The text of the President's letter read as follows:⁵⁶³

"I have the honour to call your attention to the important principles regarding the India-Pakistan question restated in the Security Council resolution of 30 March 1951 (S/2017/Rev.1).

"Members of the Security Council, at its 548th meeting held on 29 May 1951, have heard with satisfaction the assurances of the representative of India that any constituent assembly that may be established in Srinagar is not intended to prejudice the issues before the Security Council or to come in its way.

"On the other hand, the two communications to me, as President of the Council, from the representative of Pakistan, set forth in documents S/2119 and S/2145, contain reports which, if they are correct, indicate that steps are being taken by the Yuvaraja of Jammu and Kashmir to convoke a constituent assembly, one function of which, according to Sheikh Abdulla, would be 'a decision on the future shape and affiliation of Kashmir'.

"It is the sense of the Security Council that these reports, if correct, would involve procedures which are in conflict with the commitments of the parties to determine the future accession of the State by a fair and impartial plebiscite conducted under United Nations auspices.

"It seems appropriate to recall the request contained in the resolution of 30 March that the parties create and maintain 'an atmosphere favourable to the promotion of further negotiations and to refrain from any action likely to prejudice a just and peaceful settlement'. The Council trusts that the Governments of India and Pakistan will do everything in their power to ensure that the authorities in Kashmir do not disregard the Council or act in a manner which would prejudice the determination of the future accession of the State in accordance with the procedures provided for in the resolutions of the Council and of the United Nations Commission for India and Pakistan.

"As President of the Security Council, I have attempted to summarize the general line of the Security Council's discussion on this matter, a full record of which is attached."

At the same meeting, the text of the letter was adopted by 9 votes in favour and none against, with 2 abstentions.⁵⁶⁴

⁵⁶¹ 543rd meeting: p. 4.

⁵⁶² S/2119 and S/2145, O.R., 6th year, Suppl. for April-June 1951, pp. 98-99 and 121-22.

⁵⁶³ 548th meeting: pp. 21-22.

⁵⁶⁴ 548th meeting: p. 23.

Decision of 10 November 1951 (566th meeting): Instruction to the United Nations Representative for India and Pakistan to continue his efforts to obtain agreement on a plan for demilitarizing Jammu and Kashmir, and to report to the Security Council within six weeks

By letter dated 15 October 1951⁵⁶⁵ the United Nations Representative for India and Pakistan transmitted his first report to the Security Council.

At the 566th meeting on 10 November, the representatives of the United Kingdom and the United States submitted a joint draft resolution which was adopted⁵⁶⁶ at the same meeting by 9 votes in favour, none against, with 2 abstentions.⁵⁶⁷ The resolution read as follows:

"The Security Council,

"Having received and noted the report of Dr. Frank Graham, the United Nations Representative for India and Pakistan, on his mission initiated by the Security Council resolution of 30 March 1951, and having heard Dr. Graham's address to the Council on 18 October,

"Noting with approval the basis for a programme of demilitarization which could be carried out in conformity with the previous undertakings of the parties, put forward by the United Nations Representative in his communication of 7 September 1951 to the Prime Ministers of India and Pakistan,

"1. Notes with gratification the declared agreement of the two parties to those parts of Dr. Graham's proposals which reaffirm their determination to work for a peaceful settlement, their will to observe the cease-fire agreement and their acceptance of the principle that the accession of the State of Jammu and Kashmir should be determined by a free and impartial plebiscite under the auspices of the United Nations;

"2. Instructs the United Nations Representative to continue his efforts to obtain agreement of the parties on a plan for effecting the demilitarization of the State of Jammu and Kashmir;

"3. Calls upon the parties to co-operate with the United Nations Representative to the fullest degree in his efforts to resolve the outstanding points of difference between them;

"4. Instructs the United Nations Representative to report to the Security Council on his efforts, together with his views concerning the problems confided to him, not later than six weeks after this resolution comes into effect."

By letter dated 18 December 1951, the United Nations Representative transmitted his second report⁵⁶⁸ in accordance with the resolution.

⁵⁶⁵ S/2375 and S/2375/Corr.1, O.R., 6th year, Special Suppl. No. 2, pp. 1-38.

⁵⁶⁶ S/2392.

⁵⁶⁷ 566th meeting: p. 19.

⁵⁶⁸ S/2448, O.R., 7th year, Special Suppl. No. 1, pp. 1-37.

⁵⁶⁹ S/694, O.R., 3rd year, Suppl. for Jan., Feb., Mar. 1948, pp. 31-34.

THE CZECHOSLOVAK QUESTION

INITIAL PROCEEDINGS

By letter dated 12 March 1948,⁵⁶⁹ Chile requested the Secretary-General, under Article 35 (1), to refer to the Security Council the communication of 10 March 1948 from Mr. Papanek, "permanent representative of Czechoslovakia", alleging that the political independence of Czechoslovakia had been violated by the threat of the use of force by the USSR in violation of Article 2 (4). The representative of Chile requested that the Council, in accordance with Article 34, should investigate the reported events which constituted "a threat to international peace and security".

At the 268th meeting on 17 March 1948 the Council included the question in the agenda.⁵⁷⁰ In the debate on the adoption of the agenda, the representatives of the United Kingdom and the United States stressed⁵⁷¹ that the question before the Council was essentially the complaint of recourse by the USSR to the threat of the use of force, contrary to Article 2 (4).⁵⁷² The representative of the USSR repudiated the allegation.⁵⁷³

The Council considered the Czechoslovak question at its 268th, 272nd, 273rd, 276th, 278th, 281st, 288th, 300th, 303rd and 305th meetings between 17 March and 26 May.

Decision of 24 May 1948 (303rd meeting): Rejection of draft resolution submitted by the representative of Chile and sponsored by the representative of Argentina

At the 281st meeting on 12 April 1948, the representative of Chile* submitted a proposal⁵⁷⁴ providing for the Security Council "to appoint a sub-committee of . . . members" and instruct "this sub-committee to receive or to hear . . . evidence, statements and testimonies and to report to the Security Council at the earliest possible time".

At the 288th meeting on 29 April, the representative of Argentina proposed that a vote be taken upon the proposal made by the representative of Chile and that the sub-committee should consist of three members.⁵⁷⁵

At the 303rd meeting on 24 May, the proposal was not adopted. There were 9 votes in favour and 2 against (1 vote against being that of a permanent member).⁵⁷⁶

At the same meeting, the representative of Argentina submitted a draft resolution (S/782) to entrust

⁵⁷⁰ 268th meeting: pp. 101-102. For consideration of the inclusion of the question in the agenda, see chapter II, Case 32; on the claim of domestic jurisdiction, see chapter XII, Case 16.

⁵⁷¹ 268th meeting: pp. 94, 99.

⁵⁷² In the discussion at the 281st and 288th meetings, the representatives of the United States and Belgium referred in similar terms to Article 2 (4) in connexion with the question before the Council. See 281st meeting: pp. 25-26; 288th meeting: p. 18.

⁵⁷³ 281st meeting: pp. 3-4.

⁵⁷⁴ 281st meeting: p. 2. For text, see chapter X, Case 17.

⁵⁷⁵ 288th meeting: p. 15.

⁵⁷⁶ 303rd meeting: pp. 28-29. For consideration of voting procedure and of the relation of Article 34 to the proposal, see chapter IV, Case 49; chapter V, Case 67; chapter X, Case 17.

the Committee of Experts with the task of obtaining further testimonial evidence.

The Czechoslovak question remained on the list of matters of which the Security Council is seized.

THE QUESTION OF THE FREE TERRITORY OF TRIESTE

Letter dated 28 July 1948 from the representative of Yugoslavia to the Secretary-General transmitting a Note from the Government of the Federal People's Republic of Yugoslavia concerning the Free Territory of Trieste (S/927)

INITIAL PROCEEDINGS

By letter dated 28 July 1948, Yugoslavia brought to the attention of the Security Council the "consistent acts of violations of the clauses of the Treaty of Peace with Italy regarding the Free Territory of Trieste on the part of the Allied Military Command",⁵⁷⁷ by which "a situation is created likely to endanger the maintenance of international peace and security", and requested the Council "to assure the respect by the Governments of the United States of America and the United Kingdom of their international obligations, thus guaranteeing the independence of the Free Territory of Trieste".⁵⁷⁸

At the 344th meeting on 4 August 1948 the Security Council included the question in the agenda.⁵⁷⁹

The Security Council considered the question at its 344th to 346th, 348th, 350th, 353rd and 354th meetings between 4 August and 19 August 1948.

Decisions of 19 August 1948 (354th meeting): Rejection of draft resolutions submitted by the representatives of Yugoslavia and the Ukrainian SSR

At the 344th meeting on 4 August 1948, the representative of the United States stated that the charges made by the representative of Yugoslavia were "utterly devoid of substance".⁵⁸⁰

At the 348th meeting on 13 August 1948, the representative of Yugoslavia submitted a draft resolution to declare that certain agreements concluded between the Allied Military Command and the Republic of Italy were "incompatible with the status of the Free Territory of Trieste" and to render them "null and void".⁵⁸¹

At the 353rd meeting on 19 August 1948, the representative of the Ukrainian SSR submitted a draft resolution that it was "urgently necessary to settle the question of the appointment of a Governor of the Free Territory of Trieste".⁵⁸²

At the 354th meeting on 19 August 1948, the draft resolution submitted by the representative of Yugoslavia was rejected by two votes in favour, none against, with nine abstentions.⁵⁸³

At the same meeting, the draft resolution submitted by the representative of the Ukrainian SSR was rejected by 4 votes in favour, none against, with 6

abstentions, and 1 member not participating in the voting.⁵⁸⁴

THE HYDERABAD QUESTION

INITIAL PROCEEDINGS

By cablegram dated 21 August 1948,⁵⁸⁵ Hyderabad informed the Security Council, under Article 35 (2), that a grave dispute had arisen between Hyderabad and India, which, unless settled in accordance with international law and justice, was likely to endanger the maintenance of international peace and security. The letter stated that "Hyderabad, a State not a Member of the United Nations, accepts for the purposes of the dispute the obligations of pacific settlement provided in the Charter of the United Nations". By subsequent communications dated 12 and 13 September, Hyderabad informed the Council of the imminence and subsequently of the occurrence of invasion.⁵⁸⁶

At the 357th meeting on 16 September 1948, the Security Council included the question in the agenda.⁵⁸⁷

The Security Council considered the question, or made reference to it, at its 357th, 359th, 360th, 382nd, 383rd, 384th, 425th and 426th meetings between 16 September 1948 and 24 May 1949.

At the 357th meeting on 16 September 1948, the representative of Hyderabad* urged that the situation demanded immediate action by the Security Council, not only under Chapter VI of the Charter, but also under Articles 39 and 40.⁵⁸⁸

By cablegram dated 22 September 1948⁵⁸⁹ the Nizam of Hyderabad informed the Secretary-General that he had withdrawn the complaint, and that the delegation to the Security Council, which had been sent at the instance of his former Ministry, had ceased to have any authority to represent him or his State.

At the 359th and 360th meetings on 20 and 28 September 1948, discussion centered on three questions: (a) the validity of the credentials of the Hyderabad delegation; (b) whether the withdrawal of the case by the Nizam of Hyderabad had been made voluntarily or under duress; and (c) what attitude the Council should adopt if the State and Government of Hyderabad were to disappear completely.

By letter dated 6 October 1948,⁵⁹⁰ the head of the Indian delegation informed the Council that the complaint, "which Hyderabad never had the right to make, now stood expressly withdrawn", and there existed no longer any reason for his Government to maintain a delegation in Paris for dealing with the question.

At the resumption of the discussion during the 425th and 426th meetings held on 19 and 24 May 1949, the representative of Pakistan suggested that, with regard to the question of the competence of the Council to deal with the matter, an advisory opinion of the International Court of Justice under Article 96 of the Charter might be sought.⁵⁹¹ He further suggested that, as a provisional measure envisaged under

⁵⁷⁷ O.R., 3rd year, Suppl. for Aug. 1948, p. 79.

⁵⁷⁸ O.R., 3rd year, Suppl. for Aug. 1948, p. 84.

⁵⁷⁹ 344th meeting: p. 1.

⁵⁸⁰ 344th meeting: pp. 8-9.

⁵⁸¹ 348th meeting: p. 14.

⁵⁸² 353rd meeting: pp. 18-19.

⁵⁸³ 354th meeting: p. 36.

⁵⁸⁴ 354th meeting: p. 37.

⁵⁸⁵ S/986, O.R., 3rd year, Suppl. for Sept. 1948, p. 5.

⁵⁸⁶ S/998, S/1000, O.R., 3rd year, Suppl. for Sept. 1948, pp. 6-7.

⁵⁸⁷ For consideration of the inclusion of the item in the agenda, see chapter II, Case 33.

⁵⁸⁸ 357th meeting: pp. 12-13.

⁵⁸⁹ S/1011, O.R., 3rd year, Suppl. for Sept. 1948, p. 7.

⁵⁹⁰ S/1089, 382nd meeting: pp. 27-28.

⁵⁹¹ 426th meeting: pp. 28-30.

Article 40 of the Charter, the Council might cause to be ordered a general amnesty for certain persons and organizations, and that a plebiscite be taken under the guidance, supervision and control of the United Nations to decide whether Hyderabad should accede to India or remain independent.

The Hyderabad question remained on the list of matters of which the Security Council is seized.⁵⁹²

IDENTIC NOTIFICATIONS DATED 29 SEPTEMBER 1948 FROM THE GOVERNMENTS OF THE FRENCH REPUBLIC, THE UNITED KINGDOM AND THE UNITED STATES OF AMERICA

INITIAL PROCEEDINGS

By identic notifications,⁵⁹³ France, the United Kingdom and the United States drew attention to the serious situation which they considered had arisen as a result of the unilateral imposition by the Government of the Union of Soviet Socialist Republics of restrictions on transport and communications between the Western Zones of Occupation in Germany and Berlin. The notifications stated that this action was not only in conflict with the rights of the British, French and the United States Governments, but was also contrary to the obligations of the Soviet Government under Article 2 of the Charter of the United Nations, and created a threat to the peace within the meaning of Chapter VII of the Charter. The three Governments further stated that the Government of the USSR, by its illegal actions, had been attempting to secure political objectives to which it was not entitled and which it could not achieve by peaceful means. The Government of the USSR was considered responsible for creating a situation in which further recourse to the means of settlement prescribed in Article 33 of the Charter was not possible in the existing circumstances, and which constituted a threat to international peace and security.

After discussion at the 361st and 362nd meetings on 4 and 5 October 1948, the Council included the question in the agenda.⁵⁹⁴

After the adoption of the agenda, the representatives of the USSR and the Ukrainian SSR stated that the decision represented a violation of Article 107 of the Charter and that they would not take part in the discussion of the question.

The Council considered the question further at its 363rd, 364th, 366th, 368th, 370th and 372nd meetings between 6 October and 25 October 1948.⁵⁹⁵

The representatives of France, the United Kingdom and the United States contended that the restrictions on transport and communications established by the Government of the USSR in Berlin constituted, contrary to its obligations under Article 2 (4) of the Charter, recourse to "threat of force to prevent the

other occupying Powers from exercising their legitimate rights and discharging their legal and humanitarian responsibilities". The three Powers had, therefore, brought the matter to the Security Council "as a clear threat to the peace within the meaning of Chapter VII of the Charter".

The representative of the USSR contended that the allegation "that the situation which had arisen in Berlin constituted a threat to peace and security, was without any foundation whatsoever" and that the allegation of a threat to the peace had been devised in order to by-pass Article 107 and to make it appear that the Security Council was competent.⁵⁹⁶

Decision of 25 October 1948 (372nd meeting): Rejection of draft resolution submitted by the representatives of Argentina, Belgium, Canada, China, Colombia and Syria

At the 370th meeting on 22 October 1948, the representatives of Argentina, Belgium, Canada, China, Colombia and Syria submitted a draft resolution⁵⁹⁷ which, citing Article 40 of the Charter, called upon the four occupying Powers to prevent any incident of a nature to aggravate the situation in Berlin; "to put into effect, simultaneously" the steps required for immediate removal of restrictions on transport and commerce and an immediate meeting of the four Military Governors, to arrange for the unification of currency in Berlin; and thereafter to reopen the negotiations in the Council of Foreign Ministers on all outstanding problems concerning Germany as a whole.

At the 372nd meeting, on 25 October 1948, the draft resolution was not adopted.⁵⁹⁸ There were 9 votes in favour, and 2 against (1 vote against being that of a permanent member of the Council).⁵⁹⁹

By letter dated 4 May 1949⁶⁰⁰ to the Secretary-General, the representatives of France, the United Kingdom and the United States stated that their Governments had concluded with the Government of the USSR an agreement on the question as indicated in a communiqué attached to the letter.

The question remained on the list of matter of which the Security Council is seized.

COMPLAINT OF AGGRESSION UPON THE REPUBLIC OF KOREA

INITIAL PROCEEDINGS

On 25 June 1950, the Deputy Representative of the United States transmitted to the Secretary-General a report from the United States Ambassador to the Republic of Korea that North Korean forces had invaded the territory of the Republic of Korea at several points in the early morning hours of 25 June (Korean time).⁶⁰¹

⁵⁹² 362nd meeting: p. 22; 364th meeting: p. 35.

⁵⁹⁷ S/1048, 370th meeting: pp. 5-6.

⁵⁹⁸ 372nd meeting: p. 14.

⁵⁹⁹ On 30 November 1948 the President of the Security Council "in the exercise of his powers" instituted a Technical Committee on Berlin Currency and Trade from experts nominated by neutral members of the Security Council to study, and make recommendations within thirty days upon, the establishment of a single currency in Berlin (Press Release SC/908, Enclosure 1). On 27 December 1948 the President of the Council extended the life of the Committee which made public its report on 15 March 1949 (Press Release SC/908).

⁶⁰⁰ S/1316, O.R., 4th year, Suppl. for May 1949, pp. 1-2.

⁶⁰¹ S/1495, 473rd meeting: p. 1.

⁵⁹³ For the retention of the question, see also chapter II, Case 60.

⁵⁹⁴ S/1020 and Add.1, O.R., 3rd year, Suppl. for Oct. 1948, pp. 9-45.

⁵⁹⁵ 362nd meeting: p. 21. For procedural discussion on inclusion in the agenda, see chapter II, Cases 23 and 34.

⁵⁹⁶ For statements regarding recourse to Article 33, see chapter X, Case 6; for the discussion regarding Article 107, see chapter XII, Case 30; for the invocation of Chapter VII of the Charter, see chapter XI, Case 14.

At the 473rd meeting on the same day, the message was included in the agenda under the title, "Complaint of Aggression upon the Republic of Korea", together with a cablegram from the United Nations Commission on Korea concerning the same question.⁶⁰² In this cablegram the Commission, after describing the military situation in Korea, drew the attention of the Secretary-General to the "serious situation developing which is assuming character of full-scale war and may endanger the maintenance of international peace and security".

The question was considered at the 473rd to 490th, 492nd to 497th, 502nd to 508th, 518th to 521st, and 523rd to 531st meetings between 25 June 1950 and 31 January 1951.

At the 525th to 530th meetings, the question was discussed jointly with the "Complaint of Armed Invasion of Taiwan (Formosa)".

Decision of 25 June 1950 (473rd meeting): Determining the action by North Korean forces a breach of the peace, and calling for immediate cessation of hostilities

At the 473rd meeting on 25 June 1950, the Secretary-General stated⁶⁰³ that the report he had received from the Commission, as well as reports from other sources in Korea, made it plain that military actions had been undertaken by North Korean forces. These actions were "a direct violation" of General Assembly resolution 293 (IV) of 21 October 1949, "as well as a violation of the principles of the Charter".

At the same meeting the representative of the United States submitted a draft resolution⁶⁰⁴ which, as amended after consultations among some of the representatives,⁶⁰⁵ was voted upon in parts and finally adopted as a whole by 9 votes in favour with 1 abstention, one member of the Council being absent.⁶⁰⁶

The resolution read as follows:⁶⁰⁷

"The Security Council,

"*Recalling* the finding of the General Assembly in its resolution of 21 October 1949 that the Government of the Republic of Korea is a lawfully established government 'having effective control and jurisdiction over that part of Korea where the United Nations Temporary Commission on Korea was able to observe and consult and in which the great majority of the people of Korea reside; and that this Government is based on elections which were a valid expression of the free will of the electorate of that part of Korea and which were observed by the Temporary Commission; and that this is the only such government in Korea';

"*Mindful* of the concern expressed by the General Assembly in its resolutions of 12 December 1948 and 21 October 1949 of the consequences which might follow unless Member States refrained from acts derogatory to the results sought to be achieved by the United Nations in bringing about the complete

independence and unity of Korea; and the concern expressed that the situation described by the United Nations Commission on Korea in its report menaces the safety and well-being of the Republic of Korea and of the people of Korea and might lead to open military conflict there;

"*Noting* with grave concern the armed attack upon the Republic of Korea by forces from North Korea,

"*Determines* that this action constitutes a breach of the peace,

"I. *Calls for* the immediate cessation of hostilities; and

"*Calls upon* the authorities of North Korea to withdraw forthwith their armed forces to the 38th parallel;

"II. *Requests* the United Nations Commission on Korea

"(a) To communicate its fully considered recommendations on the situation with the least possible delay;

"(b) To observe the withdrawal of North Korean forces to the 38th parallel; and

"(c) To keep the Security Council informed on the execution of this resolution;

"III. *Calls upon* all Members to render every assistance to the United Nations in the execution of this resolution and to refrain from giving assistance to the North Korean authorities."

Decision of 25 June 1950 (473rd meeting): Rejection of draft resolution submitted by the representative of Yugoslavia

At the 473rd meeting on 25 June 1950, the representative of Yugoslavia submitted a draft resolution⁶⁰⁸ to call for an immediate cessation of hostilities and withdrawal of forces, and to invite the Government of North Korea to state its case before the Security Council.⁶⁰⁹ The draft resolution was rejected by 1 vote in favour, 6 against, with 3 abstentions, one member of the Council being absent.⁶¹⁰

Decision of 27 June 1950 (474th meeting): Recommendation to Member States to furnish assistance to the Republic of Korea⁶¹¹

At the 474th meeting on 27 June 1950, the Council had before it four cablegrams⁶¹² from the United Nations Commission on Korea submitted in response to the Council decision of 25 June. At the same meeting, the representative of the United States submitted a draft resolution⁶¹³ which was put to the vote and

⁶⁰² S/1496, 473rd meeting: p. 15.

⁶⁰³ For the invitation to the representative of the Republic of Korea to participate, see chapter III, Case 53 and Case 93. For discussion on participation of the representative of the People's Republic of Korea, see chapter III, Case 64 and Case 73.

⁶⁰⁴ 473rd meeting: pp. 15, 18.

⁶⁰⁵ For statement on relevance of this decision and the decision of 25 June to Article 39, see chapter XI, Case 15. For the applicability of Art. 2 (7), see chapter XII, Case 17.

⁶⁰⁶ S/1503, S/1504, S/1507, 474th meeting: p. 2; S/1505/Rev.1, O.R., 5th year, Suppl. for June, July and Aug. 1950, pp. 23-26.

⁶⁰⁷ S/1508/Rev.1, 474th meeting: p. 4.

⁶⁰² S/1496, 473rd meeting: p. 2.

⁶⁰³ 473rd meeting: p. 3. See chapter I, Case 40.

⁶⁰⁴ S/1497, 473rd meeting: pp. 7-8.

⁶⁰⁵ S/1499, 473rd meeting: pp. 13-14.

⁶⁰⁶ 473rd meeting: pp. 15-18.

⁶⁰⁷ S/1501.

adopted by 7 votes in favour, 1 against, with 2 members of the Council not voting, and 1 member being absent.⁶¹⁴ The resolution read as follows:⁶¹⁵

"The Security Council

"Having determined that the armed attack upon the Republic of Korea by forces from North Korea constitutes a breach of the peace,

"Having called for an immediate cessation of hostilities, and

"Having called upon the authorities of North Korea to withdraw forthwith their armed forces to the 38th parallel, and

"Having noted from the report of the United Nations Commission for Korea that the authorities in North Korea have neither ceased hostilities nor withdrawn their armed forces to the 38th parallel, and that urgent military measures are required to restore international peace and security, and

"Having noted the appeal from the Republic of Korea to the United Nations for immediate and effective steps to secure peace and security,

"Recommends that the Members of the United Nations furnish such assistance to the Republic of Korea as may be necessary to repel the armed attack and to restore international peace and security in the area."

Decision of 27 June 1950 (474th meeting): Rejection of draft resolution submitted by the representative of Yugoslavia

At the 474th meeting on 27 June 1950, the representative of Yugoslavia submitted a draft resolution⁶¹⁶ to renew the call for an immediate cessation of hostilities, to initiate a procedure of mediation between the parties involved, and to invite the Government of the People's Republic of Korea to send immediately a representative to the United Nations with full powers to participate in the procedure of mediation. The draft resolution was rejected by 1 vote in favour, 7 against, with 2 members not participating in the voting and one member being absent.⁶¹⁷

Decision of 7 July 1950 (476th meeting): Establishment of a unified command

At the 475th meeting on 30 June 1950 and at the 476th meeting on 7 July 1950, the Council had before it communications from Member Governments concerning their attitudes with regard to the Council resolutions of 25 and 27 June 1950.⁶¹⁸

⁶¹⁴ 474th meeting: pp. 16-17. At the 475th meeting on 30 June 1950, the representative of Egypt, who had not participated in the voting, stated that, had he received instructions in time, he would have abstained. The President, speaking as the representative of India, who also had not participated in the voting, informed the Council that his Government had accepted the resolution. By cablegram dated 29 June 1950 (S/1517, O.R., 5th year, Suppl. for June, July and Aug. 1950, pp. 29-30), the USSR, the Council member which had been absent, stated that the resolution of 27 June had no legal force since it had been passed in the absence of two permanent members, the USSR and China, the latter having not been duly represented.

⁶¹⁵ S/1511.

⁶¹⁶ S/1509, 474th meeting: pp. 6-7.

⁶¹⁷ 474th meeting: p. 17.

⁶¹⁸ S/1515 to S/1586, O.R., 5th year, Suppl. for June, July and August 1950, pp. 28-74.

At the 476th meeting, the representatives of France and the United Kingdom submitted a joint draft resolution⁶¹⁹ which was adopted by 7 votes in favour, none against, with 3 abstentions, one member being absent.

The resolution read as follows:⁶²⁰

"The Security Council,

"Having determined that the armed attack upon the Republic of Korea by forces from North Korea constitutes a breach of the peace,

"Having recommended that Members of the United Nations furnish such assistance to the Republic of Korea as may be necessary to repel the armed attack and to restore international peace and security in the area,

"1. Welcomes the prompt and vigorous support which governments and peoples of the United Nations have given to its Resolutions of 25 and 27 June 1950 to assist the Republic of Korea in defending itself against armed attack and thus to restore international peace and security in the area;

"2. Notes that Members of the United Nations have transmitted to the United Nations offers of assistance for the Republic of Korea;

"3. Recommends that all Members providing military forces and other assistance pursuant to the aforesaid Security Council resolutions make such forces and other assistance available to a unified command under the United States;

"4. Requests the United States to designate the commander of such forces;

"5. Authorizes the unified command at its discretion to use the United Nations flag in the course of operations against North Korean forces concurrently with the flags of the various nations participating;

"6. Requests the United States to provide the Security Council with reports as appropriate on the course of action taken under the unified command."

Decision of 31 July 1950 (479th meeting): Concerning Korean Relief

At the 477th meeting on 25 July 1950, the representative of the United States informed the Council that, in pursuance of its resolution of 7 July 1950, the Unified Command had been established with Headquarters in Tokyo. At the same meeting, the Council had before it the first report, dated 24 July 1950, submitted by the Government of the United States on the course of action taken under the Unified Command.⁶²¹

At the 479th meeting on 31 July 1950, the President, speaking as the representative of Norway, submitted on behalf of his delegation, as well as those of France and the United Kingdom, a joint draft resolution⁶²² which was adopted at the same meeting by 9 votes in favour, with 1 abstention, one member being absent.

⁶¹⁹ S/1587, 476th meeting: pp. 5, 8.

⁶²⁰ S/1588.

⁶²¹ 477th meeting: pp. 3-9.

⁶²² S/1652, 479th meeting: pp. 3, 7.

The resolution read as follows:⁶²³

"The Security Council,

"Recognizing the hardships and privations to which the people of Korea are being subjected as a result of the continued prosecution by the North Korean forces of their unlawful attack; and

"Appreciating the spontaneous offers of assistance to the Korean people which have been made by governments, specialized agencies, and non-governmental organizations;

"Requests the Unified Command to exercise responsibility for determining the requirements for the relief and support of the civilian population of Korea, and for establishing in the field the procedures for providing such relief and support;

"Requests the Secretary-General to transmit all offers of assistance for relief and support to the Unified Command;

"Requests the Unified Command to provide the Security Council with reports, as appropriate, on its relief activities;

"Requests the Secretary-General, the Economic and Social Council in accordance with Article 65 of the Charter, other appropriate United Nations principal and subsidiary organs, the specialized agencies in accordance with the terms of their respective agreements with the United Nations, and appropriate non-governmental organizations, to provide such assistance as the Unified Command may request for the relief and support of the civilian population of Korea, and as appropriate in connexion with the responsibilities being carried out by the Unified Command on behalf of the Security Council."

Decision of 6 September 1950 (496th meeting): Rejection of draft resolution submitted by the representative of the United States

At the 479th meeting on 31 July 1950, the representative of the United States submitted a draft resolution⁶²⁴ to condemn the North Korean authorities for their continued defiance of the United Nations, to call upon all States to use their influence to prevail upon the authorities of North Korea to cease this defiance, and to call upon all States to refrain from assisting or encouraging the North Korean authorities and to refrain from action which might lead to the spread of the Korean conflict to other areas. At the 496th meeting on 6 September 1950, the draft resolution was put to the vote and was not adopted. There were 9 votes in favour and 1 against, with 1 abstention, the vote against being that of a permanent member.⁶²⁵

Decision of 7 September 1950 (497th meeting): Rejection of draft resolution submitted by the representative of the USSR

At the 484th meeting on 8 August 1950, in connexion with the alleged bombing by the United States Air Force of towns and other populated areas in Korea, the representative of the USSR submitted a draft resolution⁶²⁶ to call upon the Government of the United States to cease and not permit in future the

bombing by the Air Force, or by other means, of towns and populated areas and also the shooting from the air of the peaceful population of Korea. At the 497th meeting on 7 September 1950, the draft resolution was rejected by one vote in favour, 9 against, with 1 abstention.⁶²⁷

Decision of 30 September 1950 (508th meeting): Rejection of draft resolution submitted by the representative of the USSR

At the 503rd meeting on 26 September 1950, the representative of the USSR submitted a draft resolution⁶²⁸ similar to the one which had been rejected at the 497th meeting (S/1679). At the 508th meeting on 30 September 1950, the draft resolution was rejected by one vote in favour, 9 against, with 1 abstention.⁶²⁹

Decision of 30 November 1950 (530th meeting): Rejection of draft resolution submitted by the representatives of Cuba, Ecuador, France, Norway, United Kingdom and United States

At the 518th meeting on 6 November 1950, the representative of the United States read to the Council a special report dated 5 November 1950⁶³⁰, submitted by the United Nations Command, that the United Nations fighting forces were "in hostile contact with Chinese communist military units deployed for action against the forces of the Unified Command."

At the 519th meeting on 8 November 1950, the representative of the USSR objected to the Council considering the special report, on the ground that the resolution of 7 July establishing the United Nations Command had been taken in violation of the Charter.⁶³¹

At the 521st meeting on 10 November, the representatives of Cuba, Ecuador, France, Norway, the United Kingdom and the United States submitted a joint draft resolution⁶³² to call upon all States and authorities to refrain from assisting or encouraging the North Korean authorities, to prevent nationals or individuals or units of their armed forces from giving assistance to the North Korean forces and to cause the immediate withdrawal of any such nationals, individuals or units which may presently be in Korea. At the 530th meeting on 30 November 1950, the draft resolution, as a whole, was not adopted, having received 9 votes in favour and 1 against, (being that of a permanent member), with 1 member not participating in the voting.⁶³³

Decision of 30 November 1950 (530th meeting): Rejection of draft resolution submitted by the representative of the People's Republic of China and sponsored by the representative of the USSR

At the 527th meeting on 28 November 1950, the representative of the Central People's Government of

⁶²⁷ 497th meeting: pp. 17-18.

⁶²⁸ S/1812, 503rd meeting: p. 14.

⁶²⁹ 508th meeting: pp. 5, 11.

⁶³⁰ S/1884, 518th meeting: pp. 3-5.

⁶³¹ 519th meeting: pp. 4-6. For invitation to the representative of the People's Republic of China to participate during discussion of the special report, see chapter III, Cases 55 and 121. For the refusal of the Government of the People's Republic of China, see S/1889-II, *O.R.*, 5th year, *Suppl. for Sept. through Dec. 1950*, pp. 113-114.

⁶³² S/1894, 521st meeting: p. 16.

⁶³³ 530th meeting: pp. 22-25.

⁶²³ S/1657.

⁶²⁴ S/1653, 479th meeting: pp. 7-8.

⁶²⁵ 496th meeting: pp. 18-19.

⁶²⁶ S/1679, 484th meeting: p. 20.

the People's Republic of China, taking part in the discussion under rule 39 of the rules of procedure, submitted a draft resolution⁶³⁴ which in part called for "the withdrawal from Korea of the armed forces of the United States of America and all other countries, and to leave the people of North and South Korea to settle the domestic affairs of Korea themselves so that a peaceful solution of the Korean question might be achieved".⁶³⁵ The draft resolution was sponsored by the representative of the USSR.

At the 530th meeting on 30 November, the draft resolution was rejected by 1 vote in favour, 9 against, with 1 member not participating in the voting.⁶³⁶

Decision of 31 January 1951 (531st meeting): Removal of the item from the list of matters of which the Council is seized

At the 531st meeting on 31 January 1951, the representative of the United Kingdom, recalling his letter of 29 January 1951⁶³⁷ to the President of the Council, stated that, in order to avoid any technical doubts that might arise regarding an infringement of Article 12 of the Charter, he proposed that the item be taken off the agenda of the Council. At the same meeting, he submitted a draft resolution⁶³⁸ which was adopted unanimously.⁶³⁹ The resolution read as follows:

"The Security Council,

"Resolves to remove the item 'Complaint of aggression upon the Republic of Korea' from the list of matters of which the Council is seized."

COMPLAINT OF ARMED INVASION OF TAIWAN (FORMOSA)

INITIAL PROCEEDINGS

By cablegram dated 24 August 1950,⁶⁴⁰ the Minister for Foreign Affairs of the People's Republic of China stated that, on 27 June 1950, the President of the United States had announced the decision of his Government to prevent with armed forces the liberation of Taiwan by the Chinese People's Liberation Army. The United States 7th Fleet had moved toward the Straits of Taiwan and contingents of the United States Air Forces had arrived on Taiwan, in open encroachment on the territory of the People's Republic of China. That action was a direct armed aggression on the territory of China and a total violation of the United Nations Charter. The Foreign Minister proposed to the Security Council, as the organ charged with the maintenance of international peace and security and the upholding of the dignity of the Charter, that it was its duty to condemn the United States Government for its "criminal" act and to take immediate measures to bring about the complete withdrawal of all United States armed invading forces from Taiwan and from other territories belonging to China.

In his statement to the Council, at the 527th meeting on 28 November 1950, the representative of the People's Republic of China contended that Taiwan was an integral part of the territory of China, of which the Central People's Government was the "sole legal Government". The occupation of Taiwan by United States armed forces constituted "an act of open, direct armed aggression against China by the Government of the United States".

At the same meeting, the representative of the People's Republic submitted a draft resolution⁶⁴¹ whereby the Council would recognize the occupation of Taiwan by United States armed forces as "open and direct aggression against Chinese territory" and would condemn the United States Government accordingly; and would demand the withdrawal of United States forces from Taiwan and from Korea.

By letter dated 25 August,⁶⁴² the representative of the United States replied, in part, that:

1. The United States had not encroached on the territory of China, nor taken aggressive action against China.

2. The action of the United States had been an impartial, neutralizing action, addressed both to the forces in Formosa and on the mainland. It was an action designed to keep the peace and therefore was in full accord with the Charter of the United Nations. The United States had no designs on Formosa and the action was not inspired by any desire to acquire a special position.

3. The action of the United States was expressly stated to be without prejudice to the future political status of the island.

4. The United States would welcome United Nations consideration of the case of Formosa and would approve full United Nations investigation at Headquarters or on the spot.

At the 492nd meeting on 29 August 1950, the question was included in the agenda under the title "Complaint of Armed Invasion of Taiwan (Formosa)".⁶⁴³ The question was considered at the 490th, 493rd, 503rd-507th and 525th-530th meetings,⁶⁴⁴ held between 25 August and 30 November 1950.

Decision of 29 September 1950 (506th meeting): To defer consideration of the question and to invite a representative of the People's Republic of China to attend the Council discussions on the question

At the 504th meeting on 27 September 1950, the representative of Ecuador submitted a draft resolution,⁶⁴⁵ in the form of an amendment to a pending Chinese proposal that the item be deleted from the agenda. Under the Ecuadorean amendment, the Coun-

⁶³⁴ S/1921, 527th meeting: p. 25.

⁶³⁵ For other parts of this draft resolution, see below: "Complaint of Armed Invasion of Taiwan (Formosa)".

⁶³⁶ 530th meeting: p. 22.

⁶³⁷ S/1992, O.R., 6th year, Suppl. for Jan., Feb. and March 1951, pp. 10-11. For other observations, see chapter VI, Case 4.

⁶³⁸ S/1995, 531st meeting: p. 8.

⁶³⁹ 531st meeting: pp. 11-12.

⁶⁴⁰ S/1715, 490th meeting: p. 9-10.

⁶⁴¹ S/1716, 490th meeting: pp. 6-9.

⁶⁴² In the debate on the adoption of the agenda, the representative of the USSR contended that the complaint was raised under Article 2 (4) of the Charter (492nd meeting, p. 9). On inclusion in the agenda, see chapter II, Case 24.

⁶⁴³ At the 525th-530th meetings, the item was considered jointly with the "Complaint of aggression upon the Republic of Korea".

⁶⁴⁴ S/1817/Rev.1, 504th meeting: pp. 12-13. For discussion in relation to Article 12, see chapter VI, Case 3; and in relation to Article 34, see chapter X, Case 18.

cil would defer consideration of the question and would invite a representative of the People's Republic of China to attend when the question was discussed. The Council also had before it a USSR draft resolution,⁶⁴⁶ reintroduced at the 503rd meeting on 26 September 1950, to invite a representative of the People's Republic of China to participate forthwith in the discussion on the question.

At the 505th meeting on 28 September, the Council voted first on the Chinese proposal, which was rejected by 2 votes in favour, 6 against, and 3 abstentions. The Council then rejected the USSR draft resolution, as amended by the United Kingdom, by 6 votes in favour, 3 against, and 2 abstentions. Finally, the Council voted on the Ecuadorean proposal, the operative part of which was rejected by 6 votes in favour, 4 against and 1 abstention. The Council member who abstained later explained his vote and stated that his vote should be considered as favourable to the operative part of the draft resolution. Objections to this procedure having been made, the Council meeting adjourned.⁶⁴⁷

At the 506th meeting on 29 September, the representative of Ecuador reintroduced his draft resolution⁶⁴⁸ which was put to the vote, paragraph by paragraph. The Council then voted on the draft resolution as a whole, as amended, with the omission of the last paragraph of the preamble, and adopted it by 7 votes in favour, 3 against, and 1 abstention.⁶⁴⁹ The resolution read as follows:

"The Security Council,

"Considering that it is its duty to investigate any situation likely to lead to international friction or to give rise to a dispute in order to determine whether the continuance of such dispute or situation may endanger international peace and security, and likewise to determine the existence of any threat to peace; [9 votes to none, with 2 abstentions]

"Considering that, in the event of a complaint regarding situations or facts similar to those mentioned above, the Council may hear the complainants; [8 votes to none, with 3 abstentions]

"Considering that, in view of the divergency of opinion in the Council regarding the representation of China and without prejudice to this question, it may, in accordance with rule 39 of the rules of procedure, invite representatives of the Central People's Government of the People's Republic of China to provide it with information or assist it in the consideration of these matters; [7 votes to 2, with 2 abstentions]

"Having noted the declaration of the People's Republic of China regarding the armed invasion of the Island of Taiwan (Formosa); [7 votes to 1, with 3 abstentions]

"Decides:

"(a) To defer consideration of this question until the first meeting of the Council held after 15 November 1950;

"(b) To invite a representative of the said Government to attend the meetings of the Security Council held after 15 November 1950 during the discussion of that Government's declaration regarding an armed invasion of the Island of Taiwan (Formosa)".⁶⁵⁰ [7 votes to 4]

Decisions of 30 November 1950 (530th meeting): Rejection of draft resolution submitted by the representative of the USSR and of draft resolution by the People's Republic of China

On 2 September 1950, the representative of the USSR submitted a draft resolution⁶⁵¹ to condemn the acts of the United States Government as an act of aggression and an intervention in the internal affairs of China, and to propose to the United States Government the immediate withdrawal of all its air, sea and land forces from the island of Taiwan and from other territories belonging to China.

At the 530th meeting on 30 November 1950, the USSR draft resolution and the draft resolution submitted by the People's Republic of China and sponsored by the representative of the USSR were rejected by 1 vote in favour, 9 against and 1 member not participating in the vote.⁶⁵²

The question remained on the list of matters of which the Security Council is seized.

COMPLAINT OF BOMBING BY AIR FORCES OF THE TERRITORY OF CHINA

INITIAL PROCEEDINGS

By cablegram dated 27 August 1950,⁶⁵³ the People's Republic of China charged that, on 27 August, military aircraft of the United States forces in Korea had invaded the air of the People's Republic of China and caused material damage. He proposed that the Council condemn the United States forces in Korea for invading China's air, and that the Council "take immediate measures to bring about the complete withdrawal of all the United States aggression forces from Korea" in order to avoid an aggravation of the situation and to facilitate the peaceful settlement of the Korean question by the United Nations.

At the 493rd meeting on 31 August, the Council included the question in the agenda under the title, "Complaint of bombing by air forces of the territory of China".

The Council discussed the question at its 493rd, 497th, 499th and 501st meetings, held between 31 August and 12 September 1950.

Decision of 12 September 1950 (501st meeting): Rejection of draft resolution submitted by the representative of the United States

At the 501st meeting on 12 September 1950, the representative of the United States submitted a draft

⁶⁵⁰ For discussion regarding participation, see chapter III, Case 54 and Case 65.

⁶⁵¹ S/1757, 530th meeting: p. 21.

⁶⁵² 530th meeting: pp. 21-22.

⁶⁵³ S/1722, O.R., 5th year, Suppl. for June-Aug. 1950, pp. 144-145; see also S/1743, cablegram dated 30 August 1950, O.R., 5th year, Suppl. for June-Aug. 1950, p. 156. On inclusion in the agenda, see chapter II, Case 25.

⁶⁴⁶ S/1732, 492nd meeting: p. 15.

⁶⁴⁷ 505th meeting: pp. 20-29.

⁶⁴⁸ S/1823/Corr.1, 506th meeting: pp. 3-5.

⁶⁴⁹ 506th meeting: p. 5. For discussion on the legal effect of this vote, see chapter IV, Case 99.

resolution⁶⁵⁴ to establish a commission to investigate on the spot and report as soon as possible with regard to the allegations.

At the same meeting, the draft resolution was not adopted. There were 7 votes in favour, 1 against (being that of a permanent member), 2 abstentions, and 1 member not participating in the vote.⁶⁵⁵

Decision of 12 September 1950 (501st meeting): Rejection of draft resolution submitted by the representative of the USSR

The representative of the USSR submitted on 31 August 1950 a draft resolution⁶⁵⁶ to condemn the "illegal acts of the Government of the United States of America", to place on that Government "full responsibility" and to call upon the United States "to prohibit such illegal acts".

At the 501st meeting on 12 September 1950, the draft resolution was rejected by 8 votes in favour, 1 against, with 1 abstention, and 1 member not participating in the vote.⁶⁵⁷

The question remained on the list of matters of which the Security Council is seized.

THE ANGLO-IRANIAN OIL COMPANY CASE⁶⁵⁸

INITIAL PROCEEDINGS

By letter dated 29 September 1951,⁶⁵⁹ the United Kingdom requested the inclusion of the following item on the provisional agenda of the Security Council:

"Complaint of failure by the Iranian Government to comply with provisional measures indicated by the International Court of Justice in the Anglo-Iranian Oil Company Case."

The United Kingdom recalled that the International Court of Justice had notified the Council of the provisional measures indicated by the Court on 5 July 1951 under Article 41 (2) of its statute.⁶⁶⁰ The United Kingdom had accepted the findings of the Court, but Iran had rejected them and had ordered the expulsion from Iran of all the remaining staff of the Company, contrary to the provisional measures indicated by the Court. The letter continued:

"His Majesty's Government in the United Kingdom are gravely concerned at the dangers inherent in this situation and at the threat to peace and security that may thereby be involved."

Appended to the letter of submission was a draft resolution⁶⁶¹ to call upon the Government of Iran to act in conformity with the provisional measures indicated by the International Court and to request it to

inform the Council of the steps taken to carry out the resolution of the Council.

At the 559th meeting on 1 October 1951, after the Council had included the question in the agenda, the representative of the United Kingdom stated:⁶⁶²

"The Council will, of course, bear in mind the position of the Court as the principal judicial organ of the United Nations; both Article 92 of the Charter and Article 1 of the Court's Statute establish this. Its position in this capacity has been affirmed by the Court itself; I would direct representatives' attention, for instance, to the Peace Treaties case. To act in conformity with the decisions and findings of the Court must, therefore, necessarily be to act in conformity with purposes and principles of the United Nations. This is a cardinal reason justifying both the present recourse to the Security Council on the part of the United Kingdom Government and its request for support, on the part of the other members of the Council, of the draft resolution which it has submitted..."

The Council considered the question at the 559th through 563rd meetings between 1 and 17 October and at the 565th meeting on 19 October 1951.⁶⁶³

Decision of 19 October 1951 (565th meeting): Adjournment of debate

At the 560th meeting on 15 October, the representative of the United Kingdom, in view of the changed situation, including the expulsion of the remaining Anglo-Iranian Oil Company staff, submitted a revised draft resolution.⁶⁶⁴ Amendments submitted jointly by the representatives of India and Yugoslavia at the 561st meeting on 16 October⁶⁶⁵ were accepted by the representative of the United Kingdom at the 562nd meeting on 17 October. The draft resolution, in its second revision⁶⁶⁶ called for the resumption of negotiations in order to make further efforts to resolve the differences in accordance with the Purposes and Principles of the Charter and the avoidance of any action which would have the effect of further aggravating the situation or prejudicing the positions of the parties.

At the 562nd meeting on 17 October, the representative of Ecuador submitted a draft resolution the operative part of which read:⁶⁶⁷

"The Security Council,

"Without deciding on the question of its own competence,

"Advises the parties concerned to reopen negotiations as soon as possible with a view to making a fresh attempt to settle their differences in accordance with the Purposes and Principles of the United Nations Charter."

⁶⁵⁴ S/1752, 501st meeting: pp. 4-5. For consideration of the draft resolution, see chapter X, Case 19.

⁶⁵⁵ 501st meeting: p. 28.

⁶⁵⁶ S/1745/Rev.1, 501st meeting: p. 3.

⁶⁵⁷ 501st meeting: p. 28.

⁶⁵⁸ For consideration of the competence of the Council in relation to Article 41 of the Statute of the International Court, see chapter VI, Case 29. For the claim of domestic jurisdiction, see chapter XII, Case 19, p. 29.

⁶⁵⁹ S/2357, O.R., 6th year, Suppl. for Oct., Nov., Dec. 1951, pp. 1-2.

⁶⁶⁰ S/2239, O.R., 6th year, Suppl. for Oct., Nov., Dec. 1951, p. 1.

⁶⁶¹ S/2358, O.R., 6th year, Suppl. for Oct., Nov., Dec. 1951, pp. 2-3.

⁶⁶² 559th meeting: pp. 21-22. On inclusion in the agenda, see chapter II, Cases 26 and 37.

⁶⁶³ For discussion in relation to Chapter VI of the Charter, see chapter X, Case 26.

⁶⁶⁴ S/2258/Rev.1, O.R., 6th year, Suppl. for Oct., Nov., Dec. 1951, pp. 3-4.

⁶⁶⁵ S/2379, 561st meeting: pp. 15-16.

⁶⁶⁶ S/2258/Rev.2, O.R., 6th year, Suppl. for Oct., Nov., Dec. 1951, pp. 4-5.

⁶⁶⁷ S/2380, 562nd meeting: p. 10.

At the 565th meeting on 19 October, the representative of France proposed that the Council adjourn its debate on the question until the International Court of Justice had ruled on its own competence in the matter.⁶⁸⁸

⁶⁸⁸ 565th meeting: pp. 2-3.

At the same meeting, the French motion was adopted.⁶⁸⁹

The question remained on the list of matters of which the Security Council is seized.

⁶⁸⁹ 565th meeting: p. 12.