

Chapter VIII

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

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INTRODUCTORY NOTE

The principles underlying the organization and presentation of the material presented in chapters VIII-XII of this Supplement are the same as for the previous volumes of the Repertoire. Those volumes should be consulted for a full statement of such principles.

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

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

The questions are dealt with in the chronological order of their inclusion in the agenda of the Council^{1/} and with regard to the Palestine question^{2/} and the India-Pakistan question,^{3/} which were included in the Council's agenda before the period under review, in the order of resumption of their consideration by the Council. In respect of each question, there is given at the outset a summary of the case presented

^{1/} For a tabulation of the data on submission, see chapter X, part III. As indicated in the Editorial Note, the questions included in the agenda of the Council during the years 1959 to 1963 appear under conventional short titles.

^{2/} Repertoire of the Practice of the Security Council 1946-1951, pp. 325-344; ibid., Supplement, 1952-1955, pp. 110-119; ibid., Supplement, 1956-1958, pp. 93-105.

^{3/} Repertoire of the Practice of the Security Council, 1946-1951, pp. 344-352; ibid., Supplement 1952-1955, pp. 107-109; ibid., Supplement, 1956-1958, pp. 112-115.

to the Council, together with a summary of the contentions made in rebuttal.

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

As in the previous volumes of the Repertoire, an analytical table of measures adopted by the Council arranged broadly by type of measure has been included as part I of chapter VIII. This table should be regarded as of the nature of an index to chapter VIII; and no constitutional significance should be attached to the headings adopted in the compilation of this table nor to the inclusion of particular measures under the individual headings. Although the main headings are the same as those appearing in the Repertoire, Supplement 1956-1958, the sub-headings have been considerably expanded to include types of measures not previously adopted by the Council.

Much of the activity of the Council in connexion with Chapters VI and VII of the Charter has taken place through the instrumentality of subsidiary organs established to operate in the area of the dispute. As previously, no attempt has been made to reproduce within the Repertoire material relating to the organization and procedures of such subsidiary bodies save where questions relating to their organization and procedure have constituted an aspect of the proceedings of the Council itself.

Part I

ANALYTICAL TABLE OF MEASURES ADOPTED BY THE SECURITY COUNCIL

NOTE

As in the previous volumes of the Repertoire, the entries in this tabulation are restricted to a reference to the question, the date of the decision and the serial number of the decision in the S/ series documents.

I. PRELIMINARY MEASURES FOR THE ELUCIDATION OF FACT

- A. Hearing of interested governments and authorities.
(For invitations extended to interested governments and authorities, see chapter III).
- B. Appointment of a sub-committee to examine evidence and to conduct inquiries.

Report by the Secretary-General relating to Laos:
Decision of 7 September 1959 (S/4216).

C. Holding of an investigation.

The situation in the Republic of the Congo:
Decision of 21 February 1961 (S/4741), part A, para. 4.

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) Complaint concerning South Africa (Letter of 25 March 1960):
Decision of 1 April 1960 (S/4300), para. 1.
- (ii) Complaint by Argentina (Eichmann Case):
Decision of 23 June 1960 (S/4349), para. 1.
- (iii) The situation in Angola:
Decision of 9 June 1961 (S/4835), preamble.
- (iv) The situation in territories in Africa under Portuguese administration:
Decision of 31 July 1963 (S/5380), para. 4.
- (v) Question of race conflict in South Africa:
Decision of 7 August 1963 (S/5386), preamble.
Decision of 4 December 1963 (S/5471), preamble.

III. INJUNCTIONS TO GOVERNMENTS AND AUTHORITIES INVOLVED IN HOSTILITIES

A. Precautionary action.

- (i) Complaint by Senegal:
Decision of 24 April 1963 (S/5293), para. 2.
- (ii) Reports by the Secretary-General concerning Yemen:
Decision of 11 June 1963 (S/5331), para. 2.

B. Cessation of hostilities.

- (i) Complaint by Tunisia:
Decision of 22 July 1961 (S/4882), para. 1.
- (ii) The Palestine question:
Decision of 9 April 1962 (S/5111), preamble and para. 5.

C. Establishment and maintenance of an armistice.

The Palestine question:
Decision of 11 April 1961 (S/4788), para. 3.
Decision of 9 April 1962 (S/5111), paras. 6 and 7.

IV. MEASURES IN CONNEXION WITH INJUNCTIONS TO BE TAKEN BY THE GOVERNMENTS AND AUTHORITIES DIRECTLY INVOLVED IN HOSTILITIES

A. Withdrawal of fighting personnel.

Complaint by Tunisia:
Decision of 22 July 1961 (S/4882), para. 1.

B. Co-operation of the parties to prevent recurrences of incidents.

- (i) The Palestine question:
Decision of 9 April 1962 (S/5111), para. 3 (second part).
- (ii) Reports by the Secretary-General concerning Yemen:
Decision of 11 June 1963 (S/5331), para. 2.

V. MEASURES IN CONNEXION WITH INJUNCTIONS TO BE TAKEN BY OTHER GOVERNMENTS AND AUTHORITIES

A. Prevention of supply of war materials or means for their manufacture.

- (i) The situation in the Republic of the Congo:
Decision of 24 November 1961 (S/5002), para. 6.
- (ii) Question of race conflict in South Africa:
Decision of 7 August 1963 (S/5386), para. 3.
Decision of 4 December 1963 (S/5471), para. 5.

B. Avoidance of actions impeding the exercise of governmental authority and undermining the territorial integrity and political independence of a State.

The situation in the Republic of the Congo:
Decision of 22 July 1960 (S/4405), para. 2.

C. Prevention of departure and denial of transit to fighting and certain other personnel not under United Nations Command.

The situation in the Republic of the Congo:
Decision of 21 February 1961 (S/4741), part A, para. 3.

D. Avoidance of support to activities against the United Nations.

The situation in the Republic of the Congo:
Decision of 24 November 1961 (S/5002), para. 7.

E. Avoidance of actions likely to increase tensions between the parties.

Complaint by Cuba (letter of 11 July 1960):
Decision of 19 July 1960 (S/4395), para. 3.

F. Withholding of assistance including supply of arms which would enable a Government to continue repressive actions in a Non-Self-Governing Territory.

The situation in Territories in Africa under Portuguese administration:

Decision of 31 July 1963 (S/5380), para. 6.
Decision of 11 December 1963 (S/5481), para. 2.

G. Avoidance of actions contrary to the policies and purposes of the United Nations.

The situation in the Republic of the Congo:
Decision of 24 November 1961 (S/5002), para. 11.

H. Compliance with decisions of the Council in accordance with Articles 25 and 49 of the Charter.

The situation in the Republic of the Congo:
Decision of 9 August 1960 (S/4426), para. 5.

VI. MEASURES FOR SETTLEMENT

A. Compliance with purposes and principles of the Charter.

- (i) Complaint concerning South Africa (letter of 25 March 1960):
Decision of 1 April 1960 (S/4300), preamble and para. 5.
- (ii) Letter of 23 May 1960 from the representatives of Argentina, Ceylon, Ecuador and Tunisia:
Decision of 27 May 1960 (S/4328), paras. 1 and 2.
- (iii) Complaint by Argentina (Eichmann Case):
Decision of 23 June 1960 (S/4349), para. 2.
- (iv) Complaint by Cuba (letter of 31 December 1960):
Decision: President's statement of 5 January 1961.

(v) The Palestine question:

Decision of 9 April 1962 (S/5111), para. 1.

(vi) Complaint by Senegal:

Decision of 24 April 1963 (S/5293), preamble and para. 2.

(vii) Complaint by Haiti:

Decision: President's statement of 9 May 1963.

(viii) Question of race conflict in South Africa:

Decision of 4 December 1963 (S/5471), para. 2.

B. Expression of hope for a peaceful solution.

The situation in Angola:
Decision of 9 June 1961 (S/4835), para. 4.

C. Injunctions concerning human rights and fundamental freedoms.

- (i) Complaint concerning South Africa (letter dated 25 March 1960):
Decision of 1 April 1960 (S/4300), preamble.
- (ii) The situation in the Republic of the Congo:
Decision of 21 February 1961 (S/4741), part B, preamble.
- (iii) The situation in Angola:
Decision of 9 June 1961 (S/4835), preamble and paras. 1 and 3.
- (iv) The situation in territories in Africa under Portuguese administration:
Decision of 31 July 1963 (S/5380), para. 5.
Decision of 11 December 1963 (S/5481), para. 6.
- (v) Question of race conflict in South Africa:
Decision of 7 August 1963 (S/5386), paras. 1 and 2.
Decision of 4 December 1963 (S/5471), preamble and paras. 2 and 4.

D. Injunctions concerning the granting of independence to colonial countries and peoples.

- (i) The situation in Angola:
Decision of 9 June 1961 (S/4835), preamble and para. 1.
- (ii) The situation in territories in Africa under Portuguese administration:
Decision of 31 July 1963 (S/5380), preamble and paras. 1, 2 and 5.
Decision of 11 December 1963 (S/5481), preamble and paras. 3, 5 and 6.

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

1. Direct negotiations.

Letter of 23 May 1960 from the representatives of Argentina, Ceylon, Ecuador and Tunisia:
Decision of 27 May 1960 (S/4328), paras. 1 and 4.

2. Resort to regional agencies or arrangements.

(i) Complaint by Cuba (letter of 11 July 1960):
Decision of 19 July 1960 (S/4395), paras. 1 and 2.

(ii) Letter of 5 September 1960 from the USSR (Action of OAS relating to Dominican Republic):
Decision of 9 September 1960 (S/4491).

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

1. Evacuation of foreign troops.

The situation in the Republic of the Congo:
Decision of 14 July 1960 (S/4387), para. 1.
Decision of 22 July 1960 (S/4405), para. 1.
Decision of 9 August 1960 (S/4426), preamble.

2. Measures for evacuation of certain foreign personnel not under the United Nations Command.
The situation in the Republic of the Congo:
Decision of 21 February 1961 (S/4741), part A, para. 2.
3. Request that appropriate reparation be made.
Complaint by Argentina (Eichmann Case):
Decision of 23 June 1960 (S/4349), para. 2.
4. Request to parties concerned to observe fully the terms of disengagement.
Reports by the Secretary-General concerning Yemen:
Decision of 11 June 1963 (S/5331), para. 2.
5. Convening of the Parliament.
The situation in the Republic of the Congo:
Decision of 21 February 1961 (S/4741), part B, preamble and para. 1.
6. Re-organization of armed units and personnel.
The situation in the Republic of the Congo:
Decision of 21 February 1961 (S/4741), part B, para. 2.
7. Release of political prisoners.
Question of race conflict in South Africa:
Decision of 7 August 1963 (S/5386), para. 2.
Decision of 4 December 1963 (S/5471), para. 4.
8. Compliance with General Assembly resolutions setting forth the basis for a settlement.
(i) Letter of 23 May 1960 from the representatives of Argentina, Ceylon, Ecuador and Tunisia:
Decision of 27 May 1960 (S/4325), para. 3.
(ii) The situation in Angola:
Decision of 9 June 1961 (S/4835), paras. 1 and 3.
(iii) The situation in territories in Africa under Portuguese administration:
Decision of 31 July 1963 (S/5380), paras. 1, 2, 3 and 5.
(iv) Question of race conflict in South Africa:
Decision of 7 August 1963 (S/5386), preamble.
Decision of 4 December 1963 (S/5471), preamble and para. 3.
- VII. MEASURES TO PROMOTE THE IMPLEMENTATION OF RESOLUTIONS OF THE SECURITY COUNCIL
- A. Establishment or employment of subsidiary organs.
1. For investigation.
The situation in Angola:
Decision of 9 June 1961 (S/4835), para. 2.
2. For observation or supervision in connexion with the ending of hostilities.
Reports by the Secretary-General concerning Yemen:
Decision of 11 June 1963 (S/5331), para. 1.
3. For examination of methods of resolving the situation in the territory of a Member State.
Question of race conflict in South Africa:
Decision of 4 December 1963 (S/5471), para. 6.
- B. Endorsement of decisions of subsidiary organs.
The Palestine question:
Decision of 11 April 1961 (S/4788), para. 1.
- C. Call upon the parties to co-operate fully with subsidiary organs.
(i) The Palestine question:
Decision of 11 April 1961 (S/4788), para. 2.
Decision of 9 April 1962 (S/5111), para. 4.
(ii) The situation in Angola:
Decision of 9 June 1961 (S/4835), preamble and para. 1.
- D. Invitation to the Government of a Member State to avail itself of the assistance of a subsidiary organ.
Question of race conflict in South Africa:
Decision of 4 December 1963 (S/5471), para. 7.
- E. Observation by the President.
The India-Pakistan question:
President's statement of 1 February 1962.
The situation in the Republic of the Congo:
President's statement of 22 August 1960.
- F. Authorizations to the Secretary-General.
1. To provide a Government with military assistance.
The situation in the Republic of the Congo:
Decision of 14 July 1960 (S/4387), para. 2.
2. To evacuate military forces.
The situation in the Republic of the Congo:
Decision of 22 July 1960 (S/4405), para. 1.
Decision of 9 August 1960 (S/4426), para. 1.
3. To take necessary measures including the use of force to arrest and/or deport certain personnel, military or other, not under the United Nations Command.
The situation in the Republic of the Congo:
Decision of 24 November 1961 (S/5002), para. 4.
4. To prevent entry or return of certain personnel, military or other, not under United Nations Command, and also of arms and other war material.
The situation in the Republic of the Congo:
Decision of 24 November 1961 (S/5002), para. 5.
5. Request to the Secretary-General to make arrangements in consultation with the Government involved to uphold the purposes and principles of the Charter.
Complaint concerning South Africa (letter dated 25 March 1960):
Decision of 1 April 1960 (S/4300), para. 5.
- G. Employment of United Nations forces.
1. Entry into a territory.
The situation in the Republic of the Congo:
Decision of 9 August 1960 (S/4426), para. 3.
2. Limitation on powers.
The situation in the Republic of the Congo:
Decision of 9 August 1960 (S/4426), para. 4.
3. Deprecation of armed action against United Nations forces.
The situation in the Republic of the Congo:
Decision of 24 November 1961 (S/5002), para. 2.
- H. Measures to prevent the occurrence of civil war, including the use of force if necessary.
The situation in the Republic of the Congo:
Decision of 21 February 1961 (S/4741), part A, para. 1.
- I. Investigation and punishment of perpetrators of crimes.
The situation in the Republic of the Congo:
Decision of 21 February 1961 (S/4741), part A, para. 4.
- J. Support to a government to maintain law and order and national integrity.
The situation in the Republic of the Congo:
Decision of 24 November 1961 (S/5002), paras. 9 and 10.
- K. Action to maintain territorial integrity and political independence. Cessation of secessionist activities.
The situation in the Republic of the Congo:
Decision of 24 November 1961 (S/5002), paras. 1, 3 and 8.
- L. Measures to obtain compliance.
1. Reaffirmation of previous decisions.
(a) Of the Security Council:
(i) The situation in the Republic of the Congo:
Decision of 9 August 1960 (S/4426), preamble and para. 1.
President's statement of 10 September 1960.
Decision of 21 February 1961 (S/4741), part A, para. 5.
Decision of 24 November 1961 (S/5002), preamble and para. 4.
(ii) The Palestine question:
Decision of 9 April 1962 (S/5111), preamble and para. 2.
(iii) Question of race conflict in South Africa:
Decision of 7 August 1963 (S/5386), preamble and para. 2.
Decision of 4 December 1963 (S/5471), preamble and paras. 1 and 4.
(iv) The situation in territories in Africa under Portuguese administration:
Decision of 11 December 1963 (S/5481), preamble.
(b) Of the General Assembly:
(i) The situation in the Republic of the Congo:
Decision of 21 February 1961 (S/4741), part A, para. 5.
Decision of 24 November 1961 (S/5002), preamble and paras. 9 and 10.
(ii) The situation in Angola:
Decision of 9 June 1961 (S/4835), para. 1.
(iii) The situation in territories in Africa under Portuguese administration:
Decision of 11 December 1963 (S/5481), para. 4.
2. Request for immediate withdrawal of troops.
The situation in the Republic of the Congo:
Decision of 9 August 1960 (S/4426), para. 2.
3. Request for compliance with previous resolutions.
(i) The situation in the Republic of the Congo:
Decision of 21 February 1961 (S/4741), part A, para. 5.
(ii) The question of race conflict in South Africa:
Decision of 7 August 1963 (S/5386), para. 2.
(iii) The situation in territories in Africa under Portuguese administration:
Decision of 11 December 1963 (S/5481), para. 2.

4. Expression of concern over non-implementation of specific measures requested by the Security Council.
- (i) The Palestine question:
Decision of 9 April 1962 (S/5111), preamble.
- (ii) Question of race conflict in South Africa:
Decision of 4 December 1963 (S/5471), preamble.
5. Deprecation of continued refusal to implement the resolutions of the Security Council
- (i) The situation in territories in Africa under Portuguese administration:
Decision of 31 July 1963 (S/5380), para. 3.
- (ii) Question of race conflict in South Africa:
Decision of 4 December 1963 (S/5471), para. 3.
- M. Endorsement of reports of the Secretary-General.
- (i) The situation in the Republic of the Congo:
Decision of 22 July 1960 (S/4405), para. 3.
- (ii) Reports by the Secretary-General concerning Yemen:
Decision of 11 June 1963 (S/5331), preamble.
- N. Request for assistance from the specialized agencies of the United Nations.
- The situation in the Republic of the Congo:
Decision of 22 July 1960 (S/4405), para. 4.
- O. Finding of a violation of a Security Council cease-fire injunction.
- The Palestine question:
Decision of 9 April 1962 (S/5111), para. 3.
- P. Expression of concern over military incursions into foreign territories.
- Complaint by Senegal:
Decision of 24 April 1963 (S/5293), para. 1.
- VIII. MEASURES TO ENSURE FURTHER CONSIDERATION AND TO ASCERTAIN COMPLIANCE
- A. Request for information on the progress of settlement.
1. From the Secretary-General.
- (i) Complaint concerning South Africa (letter dated 25 March 1960):
Decision of 1 April 1960 (S/4300), para. 5.
- (ii) The situation in the Republic of the Congo:
Decision of 14 July 1960 (S/4387), para. 3.
Decision of 22 July 1960 (S/4405), para. 5.
Decision of 9 August 1960 (S/4426), para. 6.
- (iii) Complaint by Senegal:
Decision of 24 April 1963 (S/5293), para. 3.
- (iv) Reports by the Secretary-General concerning Yemen:
Decision of 11 June 1963 (S/5331), para. 3.
- (v) The situation in territories in Africa under Portuguese administration:
Decision of 31 July 1963 (S/5380), para. 7.
Decision of 11 December 1963 (S/5481), para. 7.
- (vi) Question of race conflict in South Africa:
Decision of 7 August 1963 (S/5386), para. 4.
Decision of 4 December 1963 (S/5471), para. 8.
2. From the subsidiary organs.
- (i) The situation in Angola:
Decision of 9 June 1961 (S/4835), para. 5.
- (ii) The Palestine question:
Decision of 9 April 1962 (S/5111), para. 8.
3. From regional agencies or arrangements.
- Complaint by Cuba (letter of 11 July 1960):
Decision of 19 July 1960 (S/4395), preamble and para. 1.
- B. Provision by express decision to consider the matter further.
- Complaint by Tunisia:
Decision of 22 July 1961 (S/4882), para. 2.
- C. Statement by the President that the Council would remain seized of the question.
- (i) Complaint by Kuwait:
Decision; President's statement of 7 July 1961.
- (ii) Complaint by Tunisia:
Decision; President's statement of 22 July 1961.
- (iii) Complaint by Cuba (letter of 21 November 1961):
Decision; President's statement of 28 November 1961.
- (iv) Complaints by Cuba, USSR and USA (letters dated 22-23 October 1962):
Decision; President's statement of 25 October 1962.
- (v) Complaint by Haiti:
Decision; President's statement of 9 May 1963.
- IX. MEASURES IN CONNEXION WITH THE INABILITY OF THE SECURITY COUNCIL TO EXERCISE ITS RESPONSIBILITY FOR THE MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY
- A. Convocation of an emergency special session of the General Assembly under the provisions of General Assembly resolution 377 (V) of 3 November 1950.
- The situation in the Republic of the Congo:
Decision of 17 September 1960 (S/4526).

PART II

THE PALESTINE QUESTION

Decision of 30 January 1959 (845th meeting): Adjournment

By letter^{4/} dated 26 January 1959, the permanent representative of Israel brought to the attention of the Security Council "the renewal of aggression by United Arab Republic armed forces on the Israel-Syrian border" and requested that a special meeting of the Council be convened to consider the matter. It was stated in the letter that a series of incidents, especially the latest one at Ma'ale Habashan, in which one shepherd was killed by Syrian soldiers, constituted "grave violations of the Israel-Syrian General Armistice Agreement and of the Charter of the United Nations, threatening peace and security". The Government of Israel believed that it was the duty of the United Nations under the Charter to bring about an immediate cessation of these acts of aggression.

At the 845th meeting on 30 January 1959, the Security Council included the Israel complaint in its agenda. Following the adoption of the agenda,

^{4/} S/4151 and Corr.1, O.R., 14th year, Suppl. for Jan.-June 1959, pp. 3-4.

the representatives of Israel and the United Arab Republic were invited to take a place at the Council table.^{5/}

The representative of Israel* stated that the attack had been a climax in a series of incidents, about which in each instance complaints had been lodged by Israel with the Mixed Armistice Commission. The continuation of constant firing by Syrian forces into Israel Territory was likely to endanger international peace and security and therefore fell clearly within the purview of Article 34 of the Charter. Further, Article 35 conferred upon each Member State the right to bring such matters to the Security Council.

The representative of the United Arab Republic* contended that under article VII of the General Armistice Agreement an incident of the kind referred to by the representative of Israel should be first dealt with by the Mixed Armistice Commission, the body which had been established by agreement between the two parties under the auspices of the Security Council, and not by the Security Council itself. Israel's recourse to the Council with a purely local incident was in his view a further evidence of its in-

^{5/} 845th meeting: para. 32.

tention to persist in its refusal to recognize the functions of the Mixed Armistice Commission.

The representatives of the United Kingdom, the United States, Japan, France, Italy, Canada, China and Panama expressed the view that both parties should observe strictly the provisions of the General Armistice Agreement, show good faith and respect for the Agreement by strict orders to the military commanders on both sides to prohibit firing except in cases of obvious self-defence. The representative of the USSR held that Israel was disregarding procedures laid down in the Armistice Agreement and maintained that it was necessary for the Council to indicate to the Government of Israel the need to abide strictly by the provisions of the Armistice Agreement.^{6/}

The Council adjourned the meeting.^{7/}

Decision of 11 April 1961 (949th meeting):

- (i) *Endorsing the decision of the Jordan-Israel Mixed Armistice Commission of 20 March 1961;*
- (ii) *Urging Israel to comply with this decision;*
- (iii) *Requesting the members of the Mixed Armistice Commission to co-operate so as to ensure that the General Armistice Agreement will be complied with*

By letter^{8/} dated 1 April 1961, the permanent representative of Jordan informed the President of the Security Council that the Israel authorities were contemplating holding on 20 April 1961, in the Israel-occupied part of the Holy City of Jerusalem, a military parade in which Israel troops, heavy armament and heavy war equipment would be displayed and reviewed. The Government of the Hashemite Kingdom of Jordan had submitted a complaint to the Jordan-Israel Mixed Armistice Commission which, on the basis of its findings, had decided on 20 March 1961 that "this act by Israel is a breach of the General Armistice Agreement." It had also condemned this act by Israel and called upon the Israel authorities to take the strongest measures to prevent the recurrence of such a breach of the General Armistice Agreement and to refrain in the future from bringing to Jerusalem any equipment in excess of that allowed for under the terms of the General Armistice Agreement. In spite of the condemnation and the decision by the Mixed Armistice Commission, the Israel authorities had again made known their intentions to hold the contemplated military parade on 20 April 1961. This contemplated act of military provocation on the part of Israel, in utter defiance and complete disregard of the decision of the Mixed Armistice Commission, if not prevented from taking place, would endanger international peace and security.

^{6/} For texts of relevant statements, see:

845th meeting: Canada, paras. 125, 129; China, paras. 135, 136; France, para. 108; Israel*, paras. 37, 40, 43-45, 140, 145, 146, 151; Italy, paras. 112-114; Japan, paras. 99-103; Panama, para. 137; USSR, paras. 117-120; United Arab Republic*, paras. 48, 49, 51, 52, 70, 83, 155; United Kingdom, paras. 57-89; United States, paras. 91, 93-96.

^{7/} 845th meeting: para. 155.

^{8/} S/4777, O.R., 16th year, Suppl. for April-June 1961, pp. 1-2.

At the 947th meeting of the Security Council on 6 April 1961, the provisional agenda listed under the general heading "The Palestine question" included:

"Letter dated 1 April 1961 from the permanent representative of the Hashemite Kingdom of Jordan addressed to the President of the Security Council (S/4777)."

The agenda was adopted^{9/} and the Security Council considered the question at its 947th to 949th meetings between 6 and 11 April 1961. The representatives of Jordan and Israel were invited to take part in the discussions.

At the 947th meeting, the representative of Israel,* in referring to the Jordanian complaint, viewed it as a minor matter of a technical character, which in no sense involved a threat to international peace and which should never have been brought before the Security Council. He discounted the assertion that the ceremonial parade of military equipment without ammunition could even constitute "a formal breach of annex II to the General Armistice Agreement". If the Council really wished to concern itself with the functioning of the Israel-Jordan Armistice Agreement, there could be more far-reaching issues than that just raised. He concluded that on the one hand the Jordanians refused implementation of the essential clauses of the Armistice Agreement and on the other they came to the Council on matters of no real significance.^{10/}

At the 948th meeting on 10 April 1961, the representatives of the United Arab Republic and Ceylon submitted a draft resolution^{11/} under which the Security Council would: (1) endorse the decision of the Mixed Armistice Commission of 20 March 1961; and (2) urge Israel to comply with this decision.

At the 949th meeting on 11 April 1961, the representative of the United States introduced an amendment^{12/} to the joint draft resolution which was adopted by 7 votes in favour and none against, with 4 abstentions.^{13/}

At the same meeting, the joint draft resolution, as amended, was adopted by 8 votes in favour and none against, with 3 abstentions. The resolution^{14/} read as follows:

"The Security Council,

"Having considered the complaint submitted on 1 April 1961 by the Government of the Hashemite Kingdom of Jordan [S/4777],

"Noting the decision of the Jordan-Israel Mixed Armistice Commission on 20 March 1961,^{15/}

"1. Endorses the decision of the Mixed Armistice Commission on 20 March 1961;

^{9/} 947th meeting: para. 3.

^{10/} 947th meeting: paras. 38, 48, 55, 61.

^{11/} S/4754, 948th meeting: para. 20.

^{12/} S/4755, O.R., 16th year, Suppl. for April-June 1961, p. 9; 949th meeting: para. 8.

^{13/} 94th meeting: para. 75.

^{14/} S/4755, O.R., 16th year, Suppl. for April-June 1961, p. 11; 949th meeting: para. 76.

^{15/} O.R., 16th year, Suppl. for Jan.-March 1961, p. 278.

"2. Urges Israel to comply with this decision;

"3. Requests the members of the Mixed Armistice Commission to co-operate so as to ensure that the General Armistice Agreement will be complied with."

Decision of 9 April 1962 (1006th meeting):

- (i) *Calling upon the two Governments concerned to comply with their obligations under Article 2, paragraph 4, of the Charter by refraining from the threat as well as the use of force;*
- (ii) *Calling upon both parties to abide scrupulously by the cease-fire arranged by the Chief of Staff on 17 March 1962;*
- (iii) *Calling for strict observance of article V of the General Armistice Agreement which provided for the exclusion of armed forces from the Demilitarized Zone;*
- (iv) *Calling upon the Governments of Israel and of the Syrian Arab Republic to co-operate with the Chief of Staff of the Truce Supervision Organization in carrying out his responsibilities under the General Armistice Agreement and the pertinent resolutions of the Security Council;*
- (v) *Requesting the Chief of Staff of the Truce Supervision Organization to report as appropriate concerning the situation*

By letter^{16/} dated 20 March 1962, the permanent representative of Syria requested that the Security Council be convened to consider the grave situation which had arisen from the acts of aggression committed by Israel on the Syrian frontier and in the demilitarized zone which threatened the peace and security of the region. He further referred to his letter of 17 March 1962^{17/} in connexion with successive acts of aggression committed by Israel during the night of 16/17 March 1962 at various points in his country's territory.

By letter^{18/} dated 21 March 1962, the permanent representative of Israel drew the attention of the Security Council to the recurrence of acts of aggression and provocation by Syrian armed forces against the citizens and territory of Israel, following the previous aggressive actions reported in his letter of 19 March 1962.^{19/} Due to the gravity of the situation caused by the persistence of these aggressive actions on the part of the Syrian armed forces, he requested an early meeting of the Council.

At the 999th meeting on 28 March 1962, the Council had before it a provisional agenda which, under the general heading of item 2 "The Palestine question" listed as sub-items (a) and (b) the complaints submitted by Syria and Israel, respectively.

Following the adoption of the agenda,^{20/} the President invited the representatives of Syria and Israel to the Security Council table to take part in the

discussion.^{21/} At the suggestion of the President, the Council decided to discuss sub-paragraphs (a) and (b) simultaneously. The Council considered the question at its 999th to 1006th meetings between 28 March and 9 April 1962.

At the 999th meeting, the Council also had before it a report from the Chief of Staff of the United Nations Truce Supervision Organization^{22/}. At the suggestion of the representative of the United States, the Council decided to request the Chief of Staff to return to New York to be available for consultation.^{23/}

At the 1000th meeting on 3 April 1962, the Secretary-General announced the presence of the Chief of Staff of UNTSO, General Von Horn, at the meeting, who would provide the Council with all relevant information available to him.^{24/}

At the same meeting, the representative of Syria submitted a draft resolution^{25/} according to which the Council would: (1) condemn Israel for the wanton attack which was carried out against Syrian territory on the night of 16/17 March 1962 in violation of the Council resolution of 15 July 1948, of the General Armistice Agreement between Syria and Israel and of Israel's obligations under the Charter; (2) warn Israel of the Security Council's resolve to call for sanctions against Israel, should it resort to further aggression in the future; and (3) invite Israel to comply with its obligations under the Charter and the General Armistice Agreement and, in particular, to help the Chief of Staff of the United Nations Truce Supervision Organization strengthen the armistice machinery in order to relieve tension in the area; and (4) request the Chief of Staff to render to the Security Council progress reports on the implementation of this resolution.

At the 1001st meeting on 4 April 1962, the representative of Israel submitted a draft resolution^{26/} which provided that the Security Council would: (1) express its grave concern at the attacks by Syrian armed forces; (2) call upon Syria to abide by all the provisions of the General Armistice Agreement, and in particular to prevent all illegal crossing from Syrian territory, to cease all interference with Israel activities on Lake Tiberias, and to desist from firing into Israel territory; (3) find that Syria's constant threats against the territorial integrity and political independence of Israel violated the letter and the spirit of the Charter of the United Nations, the Israel-Syrian General Armistice Agreement and the resolutions of the Security Council and the General Assembly; and (4) call upon Syria to refrain from any threats against the territorial integrity or political independence of Israel.

At the 1005th meeting on 6 April 1962, the Council had before it a joint draft resolution^{27/} submitted by

^{16/} S/5090, O.R., 17th year, Suppl. for Jan.-March 1962, pp. 97-98.

^{17/} S/5092, *ibid.*, p. 93.

^{18/} S/5098, *ibid.*, pp. 98-99.

^{19/} S/5093, *ibid.*, pp. 94-96.

^{20/} 999th meeting: para. 5.

^{21/} 999th meeting: para. 6.

^{22/} S/5102 and Add.1, O.R., 17th year, Suppl. for Jan.-March 1962, pp. 100-110.

^{23/} 999th meeting: paras. 97, 103, 155-156.

^{24/} 1000th meeting: paras. 11-12.

^{25/} S/5107 (later revised as S/5107/Rev.1, O.R., 17th year, Suppl. for April-June 1962, pp. 93-94); 1000th meeting: para. 92.

^{26/} S/5109, *ibid.*, pp. 94-95; 1001st meeting: para. 2.

^{27/} S/5110, same text as S/5111, see below; 1005th meeting: para. 2.

the representatives of the United Kingdom and the United States.

At the 1006th meeting on 9 April 1962, after further statements by the parties concerned, the representative of the United Arab Republic requested a separate vote on the preamble and operative paragraphs 2, 3 and 8 of the joint draft resolution. The representatives of the United Kingdom and the United States objected, under rule 32 of the rules of procedure, to this request.^{28/}

The Council adopted the joint draft resolution by 10 votes in favour, none against, with 1 abstention.^{29/} The resolution^{30/} read as follows:

"The Security Council,

"Recalling its resolutions of 15 July 1948 and 18 May 1951,

"Having considered the report of the Chief of Staff of the United Nations Truce Supervision Organization on the military activities in the Lake Tiberias area and in the Demilitarized Zone,

"Having heard the statements of the representatives of the Syrian Arab Republic and Israel,

"Being deeply concerned over developments in the area which have taken place in violation of the Charter of the United Nations and of the Armistice Agreement,

"Recalling in particular the provisions of Article 2, paragraph 4 of the Charter and article I of the Syrian-Israel General Armistice Agreement,

"Noting with satisfaction that a cease-fire has been achieved,

"1. Deplores the hostile exchange between the Syrian Arab Republic and Israel starting on 8 March 1962 and calls upon the two Governments concerned to comply with their obligations under Article 2, paragraph 4 of the Charter by refraining from the threat as well as the use of force;

"2. Reaffirms the Security Council resolution of 19 January 1956 which condemned Israel military action in breach of the General Armistice Agreement, whether or not undertaken by way of retaliation;

"3. Determines that the Israel attack of 16-17 March 1962 constitutes a flagrant violation of that resolution and calls upon Israel scrupulously to refrain from such action in the future;

"4. Endorses the measures recommended by the Chief of Staff for the strengthening of the Truce Supervision Organization in its tasks of maintaining and restoring the peace and of detecting and deterring future incidents, and calls upon the Israel and Syrian authorities to assist the Chief of Staff in their early implementation;

"5. Calls upon both parties to abide scrupulously by the cease-fire arranged by the Chief of Staff on 17 March 1962;

"6. Calls for strict observance of article V of the General Armistice Agreement which provides for the exclusion of armed forces from the Demilitarized Zone and annex IV of that Agreement which sets limits on forces in the defensive area, and calls upon the Governments of Israel and the Syrian Arab Republic to co-operate with the Chief of Staff in eliminating any violations thereof;

"7. Calls upon the Governments of Israel and of the Syrian Arab Republic to co-operate with the Chief of Staff of the Truce Supervision Organization in carrying out his responsibilities under the General Armistice Agreement and the pertinent resolutions of the Security Council and urges that all steps necessary for reactivating the Mixed Armistice Commission and for making full use of the Mixed Armistice machinery be promptly taken;

"8. Requests the Chief of Staff of the Truce Supervision Organization to report as appropriate concerning the situation."

Decision of 3 September 1963 (1063rd meeting): Rejection of the United Kingdom and United States joint draft resolution

By letter^{31/} dated 20 August 1963, the acting permanent representative of Israel requested an urgent meeting of the Security Council to consider the following complaint of Israel against Syria:

"Grave act of aggression by Syrian armed forces in violation of article III, paragraphs 2 and 3, of the General Armistice Agreement and in terms of Article 39 of the Charter of the United Nations."

In the letter it was stated that on 19 August 1963, at 19.10 hours, three unarmed members of an Israel agricultural settlement at Almagor in the Galilee, while returning home on a tractor from work in their fields, were ambushed by a group of at least ten Syrian soldiers at a point about one kilometre west of the Syrian border. Two of the farmers were murdered, the third fled, whereupon the Syrian army unit returned across the border. This entire incident took place well within Israel territory. A complaint was immediately lodged with the Mixed Armistice Commission. The letter added that this incident was the gravest in the lengthy chain of Syrian border attacks^{32/} which for a number of months past had been repeatedly carried out by the Syrian armed forces across the border against the civilian activities in the areas adjacent to the border. The continuance of this state of affairs had become intolerable to the Government of Israel, which was responsible for the protection of the lives and property of its citizens and the integrity of its borders. Accordingly, the Government of Israel requested urgent consideration of this complaint by the Security Council in order that Syria should be condemned for the warlike and aggressive actions of its armed forces and that all such acts should forthwith be brought to a halt.

By letter^{33/} dated 21 August 1963, to the President of the Security Council the representative of the

^{28/} 1006th meeting: paras. 77, 82.

^{29/} 1006th meeting: para. 106.

^{30/} S/5111, O.R., 17th year, Suppl. for April-June 1962, pp. 95-96.

^{31/} S/5394, O.R., 18th year, Suppl. for July-Sept. 1963, pp. 76-77.

^{32/} For a list of incidents, see document S/5396 which was circulated as an annex to the letter dated 21 August 1963, *ibid.*, pp. 75-82.

^{33/} S/5395, *ibid.*, p. 77.

Syrian Arab Republic stated with regard to the latest flare-up on the Syrian-Israel demarcation lines, that, at exactly 1330 hours on 20 August 1963, an Israel force opened fire with automatic weapons from the Israel settlement of Al-Dardara which was located within the demilitarized zone. The Israel force, estimated at fifteen armoured cars, was deployed throughout an extended area. The fire was directed at the Syrian advanced positions in the area. The Syrian forces returned the fire, but the Israel forces continued to shell the Syrian positions, creating a situation which threatened the peace and security of the region. This incident was preceded several days previously by a heavy concentration of Israel troops in the area. He therefore requested that an urgent meeting of the Security Council be convened to consider this grave situation which had arisen as a result of this new wave of aggression perpetrated by the Israel authorities in clear contravention of their obligations under the Syrian-Israel General Armistice Agreement.

At the 1057th meeting on 23 August 1963, the Security Council had before it the provisional agenda which, under the general heading: "The Palestine question," listed as sub-items (a) and (b) the complaints submitted by Israel and Syria, respectively.

The agenda was adopted and the Security Council considered the question at its 1057th to 1063rd meetings between 23 August and 3 September 1963. The representatives of Israel and Syria were invited^{34/} to take part in the discussion.

At the 1057th meeting on 23 August 1963, the representative of Israel* stated that the wanton murder of two Israel farmers by Syrian soldiers was serious enough even if it were an isolated incident. It had far greater import as the culminating outrage in a lengthy series of Syrian armed attacks on Israel citizens and against the background of a tense and disturbed border. The Government of Israel believed that the time had come for the Council to condemn and curb Syria's persistent violation of the Armistice Agreement and the United Nations Charter. It was felt that such action was essential in order to preserve that measure of stability which existed under the armistice regime.

The representative of Syria* charged that Israel, having opened fire from the demilitarized zone upon Syrian positions, in flagrant violation of the Armistice Agreement, now appeared in the guise of the victim. He wished the Council to give the most careful attention to the following facts: First, massive concentrations of Israel troops had recently taken place in the defensive areas, leading to expectations of an attack on the Syrian positions. Secondly, intensive military activity had been going on in the demilitarized zone. Thirdly, the Israel authorities had often refused to participate in the precise delimitation of the demarcation line. He added that the basic reason for the present tension lay in the fact that the Israel authorities refused to respect the status of the demilitarized zone as defined in the Armistice Agreement. Finally, he drew the attention of the Council to the following conclusions: first, Israel should be condemned by the

Security Council for its aggressive conduct and its incessant violations of the Armistice Agreement; secondly, the Armistice Agreement should be strictly and fully implemented; thirdly, respect for the status of the demilitarized zone must be fully ensured; fourthly, the Mixed Armistice Commission should resume normal working.^{35/}

At the 1058th meeting on 28 August 1963, the Secretary-General, in his report to the Council, stated that in general the cease-fire was being observed and that General Bull, Chief of Staff of UNTSO, had completed on 26 August the inspection visits to the defensive areas and the demilitarized zone.^{36/} The President (Norway) drew the Council's attention to the report from the Chief of Staff.^{37/}

At the 1060th meeting on 29 August 1963, the representatives of the United Kingdom and the United States submitted a joint draft resolution^{38/} according to which the Security Council would: (1) condemn the wanton murder at Almagor of two Israel citizens; (2) call the attention of the Syrian Arab Republic to evidence in the Secretary-General's report to the effect that the armed group responsible for the killing appeared to have entered from the direction of the Jordan River and left in the same direction; (3) note with satisfaction that there was no substantial show of force in the demilitarized zone on 20 August 1963; (4) appeal to the parties to co-operate in the early exchange of prisoners; (5) note certain measures proposed by the Chief of Staff with a view to alleviating tension and restoring tranquillity in the area; (6) call upon the parties to offer to the Chief of Staff all possible co-operation in the pursuit of this end in conformity with the General Armistice Agreement; and (7) request the Secretary-General to report to the Security Council by 31 December 1963 on the progress made in regard to the measures proposed by the Chief of Staff.

At the 1062nd meeting on 30 August 1963, the representative of Morocco submitted amendments^{39/} to the joint draft resolution, substituting the words "regrets the death" for "condemns the wanton murder" in the first operative paragraph, deleting operative paragraph 2 from the text, changing the text of paragraph 3, and finally adding a new paragraph which would note with regret that Israel had, since 1951, not co-operated with the Syrian-Israel Mixed Armistice Commission as provided for in the Syrian-Israel General Armistice Agreement.

At the 1063rd meeting on 3 September 1963, the Moroccan amendments were put to the vote and rejected,^{40/} by 2 votes in favour, none against, with 9 abstentions. The joint draft resolution was then voted upon and failed^{41/} of adoption. There were 8 votes in favour, 2 against, with 1 abstention (one of the nega-

^{35/} For texts of relevant statements, see: 1057th meeting: Israel,* paras. 4, 26; Syria,* paras. 39, 46, 50, 65.

^{36/} 1058th meeting, paras. 3-4.

^{37/} S/5401 and Add.1-4, O.R., 18th year, Suppl. for July-Sept. 1963, pp. 84-139; 1058th meeting: para. 6.

^{38/} S/5407; *ibid.*, p. 149; 1060th meeting: paras. 56-63.

^{39/} S/5410/Rev.1, *ibid.*, p. 151; 1062nd meeting, paras. 5, 9, 10, 12.

^{40/} 1063rd meeting: para. 63.

^{41/} 1063rd meeting: para. 64.

^{34/} 1057th meeting: para. 1.

tive votes being that of a permanent member of the Council).

REPORT BY THE SECRETARY-GENERAL
RELATING TO LAOS

INITIAL PROCEEDINGS

By note ^{42/} dated 4 September 1959, the Permanent Mission of Laos transmitted to the Secretary-General a cablegram addressed to him by the Foreign Minister of Laos requesting the assistance of the United Nations under Article 1 (1) and Article 11 (2) of the Charter, in order to halt an aggression along the north-eastern frontier of Laos, attributed to elements from the Democratic Republic of Viet-Nam. In particular, the Government of Laos requested that an emergency force should be dispatched at a very early date to halt the aggression and prevent it from spreading. The Secretary-General was also asked "to take the appropriate procedural action on this request".

By letter ^{43/} dated 5 September 1959, the Secretary-General requested the President of the Security Council to convene urgently a meeting of the Council for the consideration of an item entitled "Report by the Secretary-General on the letter received from the Minister for Foreign Affairs of the Royal Government of Laos, transmitted on 4 September 1959 by a note from the Permanent Mission of Laos to the United Nations."

At the 847th meeting on 7 September 1959, the Security Council included the item in its agenda by 10 votes in favour to 1 against.^{44/} The Council considered the question at its 847th and 848th meetings on 7 September 1959.

After the adoption of the agenda, the Secretary-General recalled that various communications on the difficulties that had developed in Laos had in the course of the year been addressed to the United Nations, without the Organization, however, being formally seized of the matter. Informal studies and consultations had taken place regarding the possibility open to the Organization to be of assistance, without impairing the Geneva Agreements of 1954 or interfering with the arrangements based on them. The specific request for the dispatch of an emergency force, contained in the Laotian note of 4 September, however, confronted the United Nations and the Secretary-General with problems entirely different from those which had been faced so far in this case. That request fell within a field in which, in the first place, the Security Council carried the responsibility. Therefore, when asked by the Laotian Government in its note of 4 September to apply the appropriate procedure, he felt he had to report to the Security Council for such consideration and initiatives as the Council might call for. His request to address the Council had thus not been based on the Secretary-General's rights under Article 99.^{45/}

^{42/} S. 4212, O.R., 14th year, Suppl. for July-Sept. 1959, pp. 7-8.

^{43/} S. 4213, *ibid.*, p. 7.

^{44/} For discussion on the adoption of the agenda and the convening of the meeting, see chapter II, Case 1.

^{45/} 847th meeting: paras. 11-12, 43-55.

Decision of 7 September 1959 (848th meeting): Establishment of a sub-committee to conduct inquiries and to report to the Council

At the same meeting, the representative of the United States submitted a draft resolution,^{46/} co-sponsored by France and the United Kingdom, under which the Council would appoint a sub-committee composed of Argentina, Italy, Japan and Tunisia, to examine the statements made before the Security Council concerning Laos, to receive further statements and documents, and to conduct such inquiries as it might determine necessary, and to report to the Council as soon as possible.

The representative of the United States maintained that the draft resolution was "squarely within the provisions of Article 29 of the Charter" and that the proposed sub-committee would be a subsidiary organ of the Council which would in effect provide for the continuation of the Council's consideration of the question.^{47/}

After a procedural debate, initiated by the representative of the USSR on the question whether the proposed establishment of a sub-committee was a procedural or a substantive matter,^{48/} the three-Power draft resolution was voted upon at the 848th meeting on 7 September 1959. The President (Italy) stated ^{49/} that the draft resolution had been adopted by 10 votes in favour to 1 against. It read as follows:^{50/}

"The Security Council

"Decides to appoint a sub-committee consisting of Argentina, Italy, Japan and Tunisia, and instructs this sub-committee to examine the statements made before the Security Council concerning Laos, to receive further statements and documents and to conduct such inquiries as it may determine necessary, and to report to the Council as soon as possible."^{51/}

At the end of the period covered by this Supplement of the Repertoire, the Security Council remained seized of the item.^{52/}

COMPLAINT CONCERNING SOUTH AFRICA

INITIAL PROCEEDINGS

By letter ^{53/} dated 25 March 1960 addressed to the President of the Security Council, the representatives of Afghanistan, Burma, Cambodia, Ceylon, Ethiopia, Federation of Malaya, Ghana, Guinea, India, Indonesia, Iran, Iraq, Japan, Jordan, Laos, Lebanon, Liberia,

^{46/} S. 4214, same text as S. 4216, see below.

^{47/} 847th meeting: paras. 56-64.

^{48/} For the procedural debate, see chapter IV, Cases 24 and 25: on the establishment of subsidiary organ, see chapter V, Case 1: in the same chapter, see also Case 9.

^{49/} 848th meeting, para. 132.

^{50/} S. 4215, O.R., 14th year, Suppl. for July-Sept. 1959, pp. 9-10.

^{51/} On 5 November 1959, the Sub-Committee established under the Security Council resolution of 7 September 1959 submitted its report to the President of the Council (S. 4236, O.R., 14th year, Suppl. for Oct.-Dec. 1959, pp. 10-73).

^{52/} S/4220, Summary Statement of 21 September 1959, item 40; S/5500, Summary Statement of 31 December 1963, item 40.

^{53/} S/4279 and Add.1, O.R., 15th year, Suppl. for Jan.-March 1960, pp. 53-54.

Libya, Morocco, Nepal, Pakistan, Philippines, Saudi Arabia, Sudan, Thailand, Tunisia, Turkey, United Arab Republic and Yemen requested, in accordance with Article 35 (1) of the Charter, an urgent meeting of the Security Council to consider the situation arising out of the large-scale killings of unarmed and peaceful demonstrators against racial discrimination and segregation in the Union of South Africa. In their opinion, that was a situation with grave potentialities for international friction, which endangered the maintenance of international peace and security.

At the 851st meeting on 30 March 1960, the Council decided to include the question in the agenda.

The Council considered the question at its 851st to 856th meetings, from 30 March to 1 April 1960. The representatives of Ethiopia, Ghana, Guinea, India, Liberia, Pakistan and the Union of South Africa, and later of Jordan, were invited to take part in the discussion.^{54/}

After the adoption of the agenda, the representative of the Union of South Africa* protested against the inclusion of the item in the agenda, a decision which his Government considered to be a violation of Article 2 (7) of the Charter, and in conflict with the unanimous decision taken at the San Francisco Conference of 1945 to the effect that nothing contained in Chapter IX of the Charter could be construed as giving authority to the United Nations to intervene in the domestic affairs of Member States. It was contended in the letter of submission that recent events in South Africa constituted a situation which could lead to international friction or give rise to a dispute likely to endanger international peace and security. However, Article 34 of the Charter made it clear that there had to be more than one party to a dispute, and there was no doubt that the other relevant Articles of the Charter envisaged disputes or situations arising between sovereign and independent States, and not purely internal situations.^{55/}

The representatives of Tunisia, Ceylon, India,* Ethiopia,* Pakistan,* Liberia,* Ghana,* Guinea* and Jordan,* speaking at the 851st to 853rd meetings, stated that Article 2 (7) could not be invoked in a situation in which the violation of human rights was so serious that the United Nations organs could not disregard it without failing in their duties as defined in Articles 1, 55 and 56. For many years the General Assembly had attempted to put an end to the situation created by the apartheid policy of the Union Government, but the South African authorities had persisted in their policy of racial discrimination, completely disregarding the Assembly resolutions which had declared this policy to be contrary to the Charter. The situation in South Africa had greatly deteriorated, and the repressive measures undertaken by the South African Government, especially since 21 March 1960, posed a serious threat to international peace and

security. A situation which had led to international friction and was likely to endanger international peace and security could never be construed as falling within the domestic jurisdiction of any one nation. Moreover, the South African Government's pursuit of the apartheid policy had resulted in the Sharpeville massacre—by its armed police force—of an unarmed multitude of African people. Similar incidents had occurred at Johannesburg and other places in the Union territory. The official figures admitted that on 21 March 1960 there had been 74 persons killed and 184 wounded, but the actual casualty figures were believed to be higher. These tragic events could start a chain reaction which would seriously endanger international peace and security. Therefore, the Council could not shirk its responsibility under Article 24 (1), which authorized it to act on behalf of all Member States, particularly since more than one-third of the United Nations Members had drawn the Council's attention to the situation in South Africa as one likely to endanger international peace and security, and since there had been numerous General Assembly resolutions recommending measures designed to prevent precisely such a dangerous situation as the one being considered by the Council. Moreover, there was an actual dispute between the Union of South Africa and the African-Asian States, and especially the African nations, and there was a danger that this state of affairs might, in the near future, give rise to a serious conflict which could be a threat to peace and order in the African continent.^{56/}

Decision of 1 April 1960 (856th meeting):

- (i) *Recognizing the situation in the Union of South Africa as one which had led to international friction and which, if continued, might endanger international peace and security;*
- (ii) *Deploring the loss of life of many Africans in recent disturbances, and the policies and actions of the Government of South Africa;*
- (iii) *Calling upon the Government of the Union of South Africa to initiate measures to bring about racial harmony, and to abandon its policies of apartheid and racial discrimination;*
- (iv) *Requesting the Secretary-General, in consultation with the South African Government, to make such arrangements as would adequately help in upholding the purposes and principles of the Charter, and to report to the Council whenever necessary and appropriate*

At the 854th meeting on 31 March 1960, the representative of Ecuador stated that the Council should reaffirm the opposition of the United Nations to apartheid and place on record its view that continuance of that policy might endanger international peace and security, and should once again invite the Union of South Africa to comply with the General Assembly's recommendations. Accordingly, the Ecuadorean representative introduced a draft resolution.^{57/}

^{54/} 851st meeting: para. 31; 853rd meeting: para. 1.

^{55/} 851st meeting: paras. 43-66, 68-81. After making this statement the representative of the Union of South Africa withdrew from the Council table. A proposal by Tunisia at the 852nd meeting on 30 March 1960 that the Security Council, through the President, should ask the representative of the Union of South Africa whether or not he intended to take part in the Council's proceedings, was put to the vote and rejected (852nd meeting, paras. 16^a, 17^a).

^{56/} For texts of relevant statements, see:

851st meeting: Tunisia, paras. 83-126;
852nd meeting: Ceylon, paras. 1-36; Ethiopia*, paras. 101-115; India*, paras. 37-100; Liberia*, paras. 143-163; Pakistan*, paras. 116-142;
853rd meeting: Ghana*, paras. 2-35; Guinea*, paras. 36-95; Jordan*, paras. 96-107.

^{57/} 854th meeting: paras. 98, 101; S/4299, O.R., 15th year, Suppl. for Jan.-March 1960, pp. 64-65.

At the 855th meeting on 1 April 1960, the representative of the Union of South Africa,* who had taken again his place at the Council table as from the 854th meeting, reiterated the protest of his Government over the disregard to Article 2 (7) by the Council. He also stated that the Union Government would regard in a serious light any resolution adopted by the Council in connexion with the local disturbances that had taken place in South Africa. Should any further bloodshed in South Africa result from a decision of the Council, the latter would have to accept its full share of responsibility.^{55/}

At the 856th meeting on 1 April 1960, the Security Council adopted^{59/} the Ecuadorean draft resolution by 9 votes in favour, none against, with 2 abstentions. The resolution^{60/} read as follows:

"The Security Council,

"Having considered the complaint of twenty-nine Member States contained in document S/4279 and Add.1 concerning 'the situation arising out of the large-scale killings of unarmed and peaceful demonstrators against racial discrimination and segregation in the Union of South Africa',

"Recognizing that such a situation has been brought about by the racial policies of the Government of the Union of South Africa and the continued disregard by that Government of the resolutions of the General Assembly calling upon it to revise its policies and bring them into conformity with its obligations and responsibilities under the Charter of the United Nations,

"Taking into account the strong feelings and grave concern aroused among Governments and peoples of the world by the happenings in the Union of South Africa,

"1. Recognizes that the situation in the Union of South Africa is one that has led to international friction and, if continued, might endanger international peace and security;

"2. Deplores that the recent disturbances in the Union of South Africa should have led to the loss of life of so many Africans and extends to the families of the victims its deepest sympathies;

"3. Deplores the policies and actions of the Government of the Union of South Africa which have given rise to the present situation;

"4. Calls upon the Government of the Union of South Africa to initiate measures aimed at bringing about racial harmony based on equality in order to ensure that the present situation does not continue or recur, and to abandon its policies of apartheid and racial discrimination;

"5. Requests the Secretary-General, in consultation with the Government of the Union of South Africa, to make such arrangements as would adequately help in upholding the purposes and principles of the Charter and to report to the Security Council whenever necessary and appropriate."

^{55/} 855th meeting: paras. 15, 23, 26.

^{59/} 856th meeting: para. 56.

^{60/} S/4310, O.R., 15th year, Suppl. for April-June 1960, pp. 1-2.

COMPLAINT BY THE USSR (U-2 INCIDENT)

INITIAL PROCEEDINGS

By cable^{61/} dated 18 May 1960, the Minister for Foreign Affairs of the USSR requested an urgent meeting of the Security Council to consider the question of aggressive acts by the United States Air Force against the Soviet Union, which created a threat to universal peace. The need for immediate examination of this question arose from the fact that United States military aircraft had repeatedly encroached upon the airspace of the USSR and the United States Government had declared these actions to be its policy. Under the United Nations Charter the Security Council bore the main responsibility for the maintenance of international peace and security; consequently, the USSR Government expected that it would take the necessary measures to halt the provocative actions which threatened the peace.

In an explanatory memorandum^{62/} dated 19 May 1960, the USSR Government gave the dates of the alleged incursions, the kinds of aircraft used, the distance they penetrated into the USSR and the bases from which they had flown. Such premeditated acts, it was stated, constituted a grave threat to universal peace. The USSR Government had hoped that at the meeting of the Heads of State in Paris, the United States would condemn the aggressive acts of its Air Force, punish the perpetrators, renounce that policy, and give assurances against recurrence. However, the United States refused to take such measures. Instead, it tried to evade responsibility and even sought to justify its policy in the name of its own security. Thus the threat of incursions by United States aircraft had not been removed, nor had the danger that such acts might lead to military clashes and the unleashing of a nuclear-rocket war. It was, therefore, the duty of the United Nations to condemn these acts. Failure to do so would only injure the prestige of the Organization and create a threat to the peace.

At the 857th meeting on 23 May 1960, the Council included the question in its agenda.^{63/} It was considered at the 857th to 860th meetings held between 23 and 26 May 1960.

Decision of 26 May 1960 (860th meeting): Rejection of the USSR draft resolution

At the 857th meeting on 23 May 1960, the representative of the USSR submitted a draft resolution^{64/} under which the Security Council would have condemned the incursions by the United States aircraft into the territory of other States as aggressive acts and requested that the United States Government adopt immediate measures to halt such acts and prevent their recurrence. In introducing his proposal, the representative of the USSR reviewed the incident and recalled previous protests and warnings about them. Until the current crisis, the USSR Government had conceded the possibility that these provocative acts represented irresponsible behaviour by military cir-

^{61/} S/4314, *ibid.*, p. 7.

^{62/} S/4315, *ibid.*, pp. 7-10.

^{63/} 857th meeting: para. 9.

^{64/} S/4321, 857th meeting: para. 99.

cles in the United States and that the United States Government, particularly its President, was not directly involved. However, the policy pursued by the United States Government and its President was finally exposed on 1 May, when they were caught in the act of executing a carefully-planned incursion into the USSR for aggressive purposes. Instead of publicly announcing its intention to halt this policy, as the USSR Government had expected, the United States declared such incursions into territories of other States to be its official policy, personally approved by its President in the name of the "open skies" plan. The USSR Government was submitting the question to the Council out of a belief that one of the most dangerous concomitants of these acts was that they flouted the principle of State sovereignty and territorial inviolability. Because of the international situation and the existence of weapons of unprecedented destructive power, there was also the danger that the Soviet Union would have every reason to draw the conclusion from the invasion of USSR territory by United States aircraft that an act of aggression was occurring and to deal the aggressor a retaliatory blow.^{65/}

At the same meeting, the representative of the United States denied that the United States had committed aggressive acts against the Soviet Union or any other country and asserted that the activities protested by the Soviet Union had no aggressive intent but rather were to assure the safety of the United States and "the free world" against surprise attack by a Power which boasted of its ability to devastate the United States and other countries by missiles armed with atomic warheads. He asserted further that the overflights "were suspended after the recent incident and are not to be resumed", rejected Soviet assertions that this suspension was "merely a 'tactical step' with the 'object of deluding world opinion'" and proposed that the two countries negotiate an "open skies" treaty to obviate the need for resort to such measures. Soviet use of force on several occasions in violation of Article 2 (4) of the Charter, together with its insistence on secrecy, justified resort to measures of collecting information against further assault. Finally, he reaffirmed his country's commitment to the solution of problems by negotiation rather than force.^{66/}

At the 860th meeting on 26 May 1960, the USSR draft resolution was rejected by 2 in favour, 7 against, with 2 abstentions.^{67/}

LETTER OF 23 MAY 1960 FROM THE REPRESENTATIVES OF ARGENTINA, CEYLON, ECUADOR AND TUNISIA

INITIAL PROCEEDINGS

By letter^{68/} dated 23 May 1960, the representatives of Argentina, Ceylon, Ecuador and Tunisia submitted

^{65/} 857th meeting: paras. 15-100.

^{66/} 857th meeting: paras. 101-118.

^{67/} 860th meeting: para. 87. By a letter dated 23 May 1960, the representatives of Argentina, Ceylon, Ecuador and Tunisia requested that at the conclusion of its current debate the Council consider a draft resolution to urge the Governments of the four Great Powers to resume discussions as soon as possible. See following item.

^{68/} S/4323, O.R., 15th year, Suppl. for April-June 1960, pp. 13-14.

a draft resolution for the consideration of the Council with the request that it be included as an item in the Council's provisional agenda at the conclusion of the debate on the item referred to in document S/4314. The draft resolution, after calling attention to the Council's responsibility for the maintenance of international peace and security and noting the disappointment caused by the failure of the Summit Conference, (1) recommended that the Governments concerned seek a solution of existing international problems by negotiation or other peaceful means,^{69/} (2) appealed to all Member Governments to refrain from any action which might increase tension; (3) requested that the Governments concerned continue their efforts to achieve a constructive solution of the question of general and complete disarmament, and (4) urged the Governments of the Four Great Powers to resume discussions as soon as possible and to avail themselves of the assistance of the Security Council and other organs of the United Nations.

At the 861st meeting on 26 May 1960, the Council decided^{70/} without vote to include in its agenda the item:

"Letter dated 23 May 1960 from the representatives of Argentina, Ceylon, Ecuador and Tunisia addressed to the President of the Security Council (S/4323)"

The Council considered the question at its 861st to 863rd meetings held on 26 and 27 May 1960.

Decision of 27 May 1960 (863rd meeting):

- (i) *Recommending that Governments concerned seek solutions of existing international problems by negotiation or other peaceful means; and requesting that they continue their efforts towards disarmament and the prohibition of nuclear weapons tests;*
- (ii) *Appealing to all Member Governments to refrain from the use or threat of force in their international relations; to respect each other's sovereignty, territorial integrity and political independence; and to refrain from any action which might increase tensions;*
- (iii) *Urging the Governments of France, the United Kingdom, the United States of America and the USSR to resume discussions as soon as possible and to avail themselves of any assistance that the Security Council and other appropriate organs of the United Nations might be able to render*

At the 861st meeting on 26 May 1960, the representative of Tunisia referred to the hopes and expectations with which the Summit Conference had been awaited and the disappointment caused by its failure. The sponsors of the draft resolution did not seek to assess responsibility for the breakdown, a matter discussed in another debate, but instead to encourage the parties to resume their talks and endeavour to settle their differences through negotiation and by other peaceful means provided in the Charter.^{71/}

^{69/} See chapter X, Case 1.

^{70/} 861st meeting: preceding para. 1.

^{71/} 861st meeting: paras. 1-13.

The representative of the USSR said that although the item on the Council's agenda was a separate one, it was directly connected with the item submitted by the Government of the USSR and previously debated. The major defect of the draft resolution was its failure to condemn the United States policy of provocation against the USSR. The Soviet Government was not opposed to the provisions recommended by the draft, but only to its failure to appeal to those who were destroying the possibility for negotiations.^{72/} He proposed the following amendments:^{73/}

(1) After the first preambular paragraph insertion of the following:

"Considering that the incursion of foreign military aircraft into the territory of other States is incompatible with the principles and purposes of the United Nations and constitutes a threat to peace and international security."

(2) At the end of the second operative paragraph the addition of the words:

"including the dispatch of their aircraft into the airspace of other States."

(3) The third operative paragraph to read:

"Requests the Governments concerned to continue their efforts towards the achievement of general and complete disarmament and the discontinuance of all nuclear weapons tests under an appropriate international control system as well as their negotiations on measures to prevent surprise attack."

At the 863rd meeting on 27 May 1960, the representative of Ecuador submitted a revised text^{74/} of the four-Power draft resolution. The revision consisted in the amendment of operative paragraph 2 to appeal to all Member Governments not only to refrain from action likely to increase tension but also to refrain from the use or threat of force in their international relations and to respect each other's sovereignty, territorial integrity and political independence.

At the same meeting the President (Ceylon) stated^{75/} that he had been informed that the Soviet Union did not wish to press for a vote on its third amendment.

The Council then voted on the remaining USSR amendments, which were rejected by a vote of 2 in favour, 6 against, with 3 abstentions.^{76/}

The four-Power revised draft resolution was adopted by 9 votes in favour, with 2 abstentions.^{77/} The resolution^{78/} read:

"The Security Council,

"Mindful of its responsibility for the maintenance of international peace and security,

^{72/} 361st meeting: paras. 93-127.

^{73/} S/4326, O.R., 15th year, Suppl. for April-June 1960, pp. 13-19.

^{74/} S/4323/Rev.2, same text as S/4328, see below; 863rd meeting: paras. 5-12.

^{75/} 863rd meeting: paras. 42-44.

^{76/} 863rd meeting: para. 47.

^{77/} 863rd meeting: para. 48. For discussion concerning Article 33 in connexion with this draft resolution, see chapter X, Case 1.

^{78/} S/4325, C.R., 15th year, Suppl. for April-June 1960, pp. 22-23.

"Noting with regret that the hopes of the world for a successful meeting of the Heads of Government of France, the United Kingdom, the United States of America and the Union of Soviet Socialist Republics have not been fulfilled,

"Considering that these developments have caused great disappointment and concern in world public opinion,

"Considering also that the resulting situation may lead to an increase of international tensions likely to endanger peace and security,

"Being convinced of the necessity to make every effort to restore and strengthen international good will and confidence, based on the established principles of international law,

"Being especially aware of the mounting danger of the continuation of the armaments race,

"1. Recommends to the Governments concerned to seek solutions of existing international problems by negotiation or other peaceful means as provided in the Charter of the United Nations;

"2. Appeals to all Member Governments to refrain from the use or threats of force in their international relations; to respect each other's sovereignty, territorial integrity and political independence; and to refrain from any action which might increase tensions;

"3. Requests the Governments concerned to continue their efforts to achieve a constructive solution of the question of general and complete disarmament under effective international control, in accordance with resolution 1378 (XIV) of the General Assembly, and the discontinuance of all nuclear weapons tests under an appropriate international control system as well as their negotiations on measures to prevent surprise attack, including technical measures, as recommended by the General Assembly;

"4. Urges the Governments of France, the United Kingdom, the United States of America and the Union of Soviet Socialist Republics to resume discussions as soon as possible and to avail themselves of the assistance that the Security Council and other appropriate organs of the United Nations may be able to render to this end."

COMPLAINT BY ARGENTINA (EICHMANN CASE) INITIAL PROCEEDINGS

By letter^{79/} dated 15 June 1960, the representative of Argentina requested the President of the Security Council to call an urgent meeting of the Council

"to consider the violation of the sovereign rights of the Argentine Republic resulting from the illicit and clandestine transfer of Adolf Eichmann from Argentine territory to the territory of the State of Israel, contrary to the rules of international law and the purposes and principles of the Charter of the United Nations and creating an atmosphere of insecurity and mistrust incompatible with the preservation of international peace."

^{79/} S/4336, *ibid.*, pp. 27-28.

In an attached memorandum, the Argentine Government referred to a note from its Foreign Ministry which had been transmitted to the Security Council with a letter^{80/} dated 10 June 1960, and in which the Argentine Government had protested to Israel after it became known that Eichmann was captured in Argentine territory by "volunteer groups" and had been taken to Israel. This had been acknowledged by the Embassy of Israel in Buenos Aires in a note verbale of 3 June 1960, which had given the circumstances related to the manner in which Eichmann had been taken away, allegedly with his full consent, and handed over to the security services of the Israel Government, which was making arrangements for the prisoner's trial. The note of Israel concluded with the statement that "if the volunteer group violated Argentine law or interfered with matters within the sovereignty of Argentina, the Government of Israel wishes to express its regret".

The Argentine Government further stated in the memorandum that it had made the most formal protest against the illegal act committed to the detriment of a fundamental right of the Argentine State, and had requested as appropriate reparation the return of Eichmann, for which it had set a time-limit of one week, and the punishment of those guilty of violating Argentine territory. Israel had been informed that, failing compliance with this request, the matter would be referred to the United Nations. In view of the failure of the diplomatic representations made by it to the Government of Israel, the Argentine Government felt compelled to request that the case be dealt with by the Security Council. In Argentina's view, the case was explicitly covered by the provisions of Article 34 and Article 35 (1) of the Charter.^{81/} The Argentine memorandum stated, in conclusion, that "a political question is involved which, apart from gravely prejudicing Argentine sovereignty, constitutes a precedent dangerous for international peace and security, for the maintenance of which the Council bears primary responsibility." The Security Council was requested to take decisions involving just reparation for the rights violated.

By letter^{82/} dated 21 June 1960 to the President of the Council, the Government of Israel contended that the unilateral allegations of the Argentine Government were not sufficient to bring the dispute or situation within the terms of Article 34 of the Charter. The Argentine complaint and the action requested were beyond the Council's competence. Whatever difficulties might have arisen between Israel and Argentina should have been settled by direct negotiations between the parties. The Argentine Government had made certain demands couched in the form of an ultimatum, calling for compliance within a week. The hope that the way was open for a direct settlement had been strengthened by discussions in Buenos Aires, which indicated that a settlement could be found by direct contact of the parties at the highest level. Such a direct contact between the Prime Minister of Israel and the President of Argentina had been in effect

arranged and their meeting was to take place in Europe later in the week. Prior to the meeting of the Security Council, the representative of Israel also sent to the President of the Council a letter^{83/} dated 21 June 1960, enclosing the texts of a note verbale of 3 June 1960 and a letter dated 7 June 1960 from the Prime Minister of Israel addressed to the President of Argentina. In these communications, Adolf Eichmann was described as the person mainly responsible for the extermination of the Jews throughout Europe during World War II. The Government of Israel did not underestimate the seriousness of the formal violation of Argentine law committed by those who, desirous to bring the man responsible for those crimes to trial before the Jewish people, had at last ended their long search with the capture of Eichmann. But there had been profound motives and a supreme moral justification for this act. The incident could not be judged only from the purely formal angle. The trial of Eichmann in Israel had to be viewed as an act of supreme historical justice.

At the 865th meeting on 22 June 1960, the Security Council decided to include the question in its agenda.^{84/} The Council considered the question at its 865th to 868th meetings on 22 and 23 June 1960. The representative of Israel was invited to participate in the discussion.^{85/}

Decision of 23 June 1960 (868th meeting):

- (i) *Declaring that acts such as that under consideration, affecting the sovereignty of a Member State and therefore causing international friction may, if repeated, endanger international peace and security;*
- (ii) *Requesting Israel to make appropriate reparation in accordance with the Charter and rules of international law; and*
- (iii) *Expressing the hope that the traditionally friendly relations between Argentina and Israel will be advanced*

At the 865th meeting on 22 June 1960, in presenting his case before the Council the representative of Argentina contended that the dispute with Israel concerned an infringement of Argentine sovereignty and had, therefore, to be regarded as a political rather than as a strictly legal dispute within the meaning of Article 36 (3) of the Charter. The deliberate violation of the sovereignty of a State was in itself in conflict with the Charter and, further, under Article 33 et seq., the violation was within the competence of the Security Council if the difference led to a situation likely to endanger international peace and security. This violation was not, however, the main threat to international peace and security. Supreme importance had to be attached to the principle impaired by that violation. This principle was "the unqualified respect which States owe to each other and which precludes the exercise of jurisdictional acts in the territory of other States". If this principle could be violated with impunity, international law would "be replaced by the law of the jungle". There could be no doubt of the competence of the

^{80/} S/4334, *ibid.*, pp. 24-26.

^{81/} For discussion on the Council's competence under Article 34, see chapter X, Case 9.

^{82/} S/4341, O.R., 15th year, Suppl. for April-June 1960, pp. 29-30.

^{83/} S/4342, *ibid.*, pp. 30-33.

^{84/} 865th meeting: para. 2.

^{85/} 865th meeting: para. 3.

Security Council when a violation of sovereignty was in conflict with a fundamental principle of peaceful relations among States. The case before the Council was, therefore, serious not only in itself but especially because of the precedent it implied. The protection of Argentine sovereign rights thus involved the protection of the rights of all members of the international community.^{86/}

At the same meeting the representative of Argentina submitted a draft resolution.^{87/} At the 866th meeting on the same day, the representative of the United States submitted two amendments^{88/} which were later accepted^{89/} by the representative of Argentina.

At the 866th meeting on 22 June 1960, the representative of Israel* recognized that the persons who apprehended Eichmann in Argentina and took him to Israel had broken the laws of Argentina. For this the Government of Israel had apologized to the Argentine Government. But the Government of Israel believed that this isolated violation of Argentine law had to be regarded in the light of the exceptional and unique character of the crimes attributed to Eichmann, on the one hand, and the motives of those that acted in this unusual manner, on the other hand. In the course of their efforts to bring Eichmann to justice some nationals of the State of Israel may have committed infringement of the law of Argentina, but these illegal actions of individuals should not be confused, as a basic legal proposition, with the non-existing intentional violation of the sovereignty of one Member State by another. This was a fundamental distinction, well established in international law, and the State of Israel emphatically denied the charge that it had violated the sovereignty of Argentina. In the view of the Government of Israel its expressions of regret constituted adequate reparation.^{90/}

At the 868th meeting on 23 June 1960, the Argentine draft resolution, as amended, was adopted by 8 votes in favour, none against, with 2 abstentions.^{91/} The representative of Argentina explained that he would not participate in the vote in accordance with the provisions of Article 27 (3) of the Charter.^{92/}

The resolution^{93/} read:

"The Security Council,

"Having examined the complaint that the transfer of Adolf Eichmann to the territory of Israel constitutes a violation of the sovereignty of the Argentine Republic.

"Considering that the violation of the sovereignty of a Member State is incompatible with the Charter of the United Nations,

"Having regard to the fact that reciprocal respect for and the mutual protection of the sovereign rights

of States are an essential condition for their harmonious coexistence,

"Noting that the repetition of acts such as that giving rise to this situation would involve a breach of the principles upon which international order is founded, creating an atmosphere of insecurity and distrust incompatible with the preservation of peace,

"Mindful of the universal condemnation of the persecution of the Jews under the Nazis, and of the concern of people in all countries that Eichmann should be brought to appropriate justice for the crimes of which he is accused,

"Noting at the same time that this resolution should in no way be interpreted as condoning the odious crimes of which Eichmann is accused,

"1. Declares that acts such as that under consideration, which affect the sovereignty of a Member State and therefore cause international friction, may, if repeated, endanger international peace and security;

"2. Requests the Government of Israel to make appropriate reparation in accordance with the Charter of the United Nations and the rules of international law;

"3. Expresses the hope that the traditionally friendly relations between Argentina and Israel will be advanced."

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

SITUATION IN THE REPUBLIC OF THE CONGO INITIAL PROCEEDINGS

By telegram^{94/} dated 12 July 1960 addressed to the Secretary-General, the President and the Prime Minister of the Republic of the Congo urgently requested the United Nations for military assistance. The telegram stated that the Congolese request was justified by the unsolicited dispatch to the Congo of metropolitan Belgian troops, in violation of the Belgian-Congolese Treaty of Friendship of 29 June 1960, which allowed intervention by Belgian troops only at the express request of the Congolese Government. Therefore, they regarded the Belgian action as an act of aggression against the Congo. They further accused the Government of Belgium of having carefully prepared the secession of Katanga with a view to maintaining a hold on the Congo.

By a further telegram^{95/} of 13 July 1960, it was made clear that: (1) the purpose of the aid requested was not to restore the internal situation in the Congo but rather to protect the national territory in the Congo against acts of aggression committed by Belgian metropolitan troops; (2) the request for assistance related to a United Nations force consisting of military personnel from neutral countries; (3) if the assistance was not forthcoming immediately the Republic of the Congo would be obliged to appeal to the Bandung Treaty Powers; and (4) the aid had

^{86/} 865th meeting: paras. 5-34.

^{87/} S/4345, 865th meeting: para. 47.

^{88/} S/4346, 866th meeting: paras. 78 and 79.

^{89/} 868th meeting: para. 43.

^{90/} 866th meeting: paras. 2-49. For discussion on appropriate reparation, see chapter X, Case 11.

^{91/} 868th meeting: para. 52.

^{92/} 868th meeting: para. 51.

^{93/} S/4349, O.R., 15th year, Suppl. for April-June 1960, p. 35.

^{94/} S/4382, document I, O.R., 15th year, Suppl. for July-Sept. 1960, p. 11.

^{95/} S/4382, document II, *ibid.*, p. 12.

been requested by the Republic of the Congo in the exercise of its sovereign rights.

By letter ^{96/} dated 13 July 1960 the Secretary-General informed the President of the Security Council that he had to bring to the attention of the Council a matter which, in his opinion, might threaten the maintenance of international peace and security. He requested an urgent meeting of the Council to hear a report of the Secretary-General on a demand for United Nations action in relation to the Republic of the Congo.

At the 873rd meeting on 13/14 July 1960, the Council decided, ^{97/} without a vote, to include in its agenda the item: "Letter dated 13 July 1960 from the Secretary-General addressed to the President of the Security Council (S/4381)."

The question was considered by the Security Council at the 873rd meeting on 13 and 14 July 1960; at the 877th to 879th meetings from 20 to 22 July 1960; at the 884th to 886th meetings on 8 and 9 August 1960; at the 887th to 889th meetings on 21 and 22 August 1960; at the 896th to 906th meetings between 9 and 17 September 1960; at the 912th to 920th meetings between 7 and 14 December 1960; at the 924th to 927th meetings between 12 and 14 January 1961; at the 928th to 942nd meetings between 1 and 21 February 1961; and at the 973rd to 979th meetings between 13 and 21 November and the 982nd meeting on 24 November 1961.

Decision of 14 July 1960 (873rd meeting):

- (i) *Calling upon the Government of Belgium to withdraw its troops from the territory of the Republic of the Congo;*
- (ii) *Deciding to authorize the Secretary-General to take the necessary steps, in consultation with the Government of the Republic of the Congo, to provide the Government with necessary military assistance until, through the efforts of the Government with the technical assistance of the United Nations, the national security forces might be able, in the opinion of the Government, to meet fully their tasks;*
- (iii) *Requesting the Secretary-General to report to the Security Council.*

At the 873rd meeting on 13/14 July 1960 the Secretary-General, explaining the situation in the Congo that had led him to bring the matter to the attention of the Security Council under Article 99, stated that although the difficulties in the Republic of the Congo were connected with the maintenance of order in the country and the protection of life, they had an important international bearing. It was not for the Secretary-General to pronounce himself on the presence of the Belgian troops in the Congo; but he had to conclude from the communications received from the Government of the Congo that the presence of those troops was a source of internal and, potentially, international tension. In those circumstances, the presence of those troops could not be accepted as a satisfactory stopgap arrangement pending the re-establishment of order through the national security forces. The Secretary-General found

that the arrangement envisaged by the Government of the Congo was preferable to any other formula, and strongly recommended to the Council

"to authorize the Secretary-General to take the necessary steps, in consultation with the Government of the Congo, to provide the Government with military assistance during the period which may have to pass before, through the efforts of the Government with the technical assistance of the United Nations, the national security forces are able to fully meet their tasks."

He added that it was his understanding that were the United Nations to act as proposed, "the Belgian Government would see its way to a withdrawal."^{98/}

The Council decided that the Government of Belgium and the Government of the Republic of the Congo should be invited to take part in the discussion of the item and at the invitation of the President (Ecuador) the representative of Belgium took a seat at the Council table.^{99/}

The representative of Tunisia submitted^{100/} a draft resolution^{101/} to which the representative of the USSR submitted amendments^{102/} which, at the same meeting, were rejected by the Council.^{103/}

At the 873rd meeting the Tunisian draft resolution was adopted by 8 votes to none with 3 abstentions.^{104/}

The resolution^{105/} read:

"The Security Council,

"Considering the report of the Secretary-General on a request for United Nations action in relation to the Republic of the Congo,

"Considering the request for military assistance addressed to the Secretary-General by the President and the Prime Minister of the Republic of the Congo [S/4382],

"1. Calls upon the Government of Belgium to withdraw its troops from the territory of the Republic of the Congo;

"2. Decides to authorize the Secretary-General to take the necessary steps, in consultation with the Government of the Republic of the Congo, to provide the Government with such military assistance as may be necessary until, through the efforts of the Congolese Government with the technical assistance of the United Nations, the national security forces may be able, in the opinion of the Government, to meet fully their tasks;

^{98/} 873rd meeting: paras. 18, 19, 26, 27. For the statement of the Secretary-General, see chapter I, Case 44; in connexion with the establishment and composition of the United Nations Force in the Congo, see chapter V, Case 2; in connexion with the limitations of the powers of the United Nations Force with regard to the principle of non-intervention in domestic matters, see chapter V, Case 2 (i); with regard to the use of force, see chapter V, Case 2 (iii).

^{99/} 873rd meeting: paras. 71-72. For the invitation of the Governments of Belgium and the Republic of the Congo, see chapter III, Case 2.

^{100/} 873rd meeting: para. 91.

^{101/} S/4383, same text as S/4357, see below.

^{102/} 873rd meeting: paras. 199, 201, 205. For the consideration of individual amendments, see chapter V, Case 2.

^{103/} 873rd meeting: paras. 223-225.

^{104/} 873rd meeting: para. 232.

^{105/} S/4387, O.R., 15th year, Suppl. for July-Sept. 1960, p. 16.

^{96/} S/4381, *ibid.*, p. 11.

^{97/} 873rd meeting: para. 16.

"3. Requests the Secretary-General to report to the Security Council as appropriate."

Decision of 22 July 1960 (879th meeting):

- (i) *Calling upon the Government of Belgium to implement speedily the Security Council resolution of 14 July 1960 on the withdrawal of its troops, and authorizing the Secretary-General to take all necessary action to this effect;*
- (ii) *Requesting all States to refrain from any action which might tend to impede the restoration of law and order and the exercise by the Government of the Congo of its authority and also to refrain from any action which might undermine the territorial integrity and the political independence of the Republic of the Congo;*
- (iii) *Commending the Secretary-General for the prompt action he had taken to carry out resolution S/4387 and for his first report;*
- (iv) *Inviting the specialized agencies of the United Nations to render to the Secretary-General such assistance as he might require;*
- (v) *Requesting the Secretary-General to report further to the Council.*

On 18 July 1960 the Secretary-General submitted to the Security Council his first report^{106/} on the implementation of resolution S/4387 of 14 July 1960.

At the 877th to 879th meetings between 20 and 22 July 1960, the representatives of Belgium and of the Republic of the Congo were invited to participate in the discussion.^{107/}

At the 877th meeting the Secretary-General introduced his report.^{108/}

The representative of Belgium said that Belgium would withdraw its intervening troops as soon as, and to the extent that, the United Nations effectively ensured the maintenance of order and the safety of persons. This principle was already being put into effect, particularly in Leopoldville.^{109/}

The representative of the USSR submitted a draft resolution^{110/} whereby the Security Council would: (1) insist upon the immediate cessation of armed intervention against the Republic of the Congo and the withdrawal from its territory of all troops of the aggressor within a period of three days; and (2) call upon all Member States to respect the territorial integrity of the Republic of the Congo and not to undertake any actions which might violate that integrity.

At the 878th meeting a joint draft resolution^{111/} was submitted by Ceylon and Tunisia.

^{106/} S/4389, *ibid.*, pp. 16-24; documents S/4389/Add.1-3 were issued on 19 and 20 July.

^{107/} 877th meeting: para. 1.

^{108/} 877th meeting: paras. 3-19. For the statement of the Secretary-General see chapter I, Cases 19 and 20; in connexion with the definition of the area of operation of the United Nations Force, see chapter V, Case 2; in connexion with the limitations of the powers of the United Nations Force with regard to the principle of non-intervention in domestic matters, see chapter V, Case 2 (1).

^{109/} 877th meeting: para. 142.

^{110/} S/4402, 877th meeting: para. 176.

^{111/} S/4404, 878th meeting: para. 39.

The representative of Ceylon, commenting on operative paragraph 1 of this draft resolution, stated that whether the words "immediately" or "as speedily as possible" or "speedily" were used, the idea was more or less the same except for the matter of timing to which some attention had to be paid.^{112/}

At the 879th meeting the representative of Ceylon, on behalf of the sponsors, asked that operative paragraph 3 of the joint draft resolution be deleted because similar authority had been conferred on the Secretary-General in the resolution of 14 July 1960. The fact that operative paragraph 1 of the present joint draft resolution envisaged a special authority for him would clearly make the present operative paragraph 3 redundant.^{113/}

The representative of the USSR stated that he had no objection to the joint draft resolution being given priority.^{114/}

The President (Ecuador) stated that the Ceylonese-Tunisian joint draft resolution would be put to the vote without operative paragraph 3.^{115/}

At the 879th meeting on 21/22 July 1960, the joint draft resolution was adopted unanimously.^{116/}

The resolution^{117/} read:

"The Security Council,

"Having considered the first report by the Secretary-General [S/4389 and Add.1-3] on the implementation of Security Council resolution S/4387 of 14 July 1960,

"Appreciating the work of the Secretary-General and the support so readily and so speedily given to him by all Member States invited by him to give assistance,

"Noting that, as stated by the Secretary-General, the arrival of the troops of the United Nations Force in Leopoldville has already had a salutary effect,

"Recognizing that an urgent need still exists to continue and to increase such efforts,

"Considering that the complete restoration of law and order in the Republic of the Congo would effectively contribute to the maintenance of international peace and security.

"Recognizing that the Security Council recommended the admission of the Republic of the Congo to membership in the United Nations as a unit,

"1. Calls upon the Government of Belgium to implement speedily the Security Council resolution of 14 July 1960 on the withdrawal of its troops, and authorizes the Secretary-General to take all necessary action to this effect;

"2. Requests all States to refrain from any action which might tend to impede the restoration of law

^{112/} 878th meeting: paras. 71-75.

^{113/} 879th meeting: para. 104.

^{114/} 879th meeting: para. 107.

^{115/} 879th meeting: para. 108.

^{116/} 879th meeting: para. 108.

^{117/} S/4405, O.R., 15th year, Suppl. for July-Sept. 1960, pp. 34-35.

and order and the exercise by the Government of the Congo of its authority and also to refrain from any action which might undermine the territorial integrity and the political independence of the Republic of the Congo;

"3. Commends the Secretary-General for the prompt action he has taken to carry out resolution S/4387 of the Security Council, and for his first report;

"4. Invites the specialized agencies of the United Nations to render to the Secretary-General such assistance as he may require;

"5. Requests the Secretary-General to report further to the Security Council as appropriate."

The representative of the USSR stated that in view of the adoption of the joint draft resolution, he would not press for a vote on his draft resolution.^{118/}

He noted that because of the specific nature of the resolution of 14 July 1960 and of the situation in the Republic of the Congo it would be prudent not to regard that resolution otherwise than as a decision adopted under exceptional circumstances. The current resolution, as well as that of 14 July, should not, therefore, be considered as a precedent for the future. The USSR felt unable to subscribe to certain aspects of the interpretation given by the Secretary-General to the resolution of 14 July, and it could not regard that resolution, and the ensuing action for its implementation, as endowing the United Nations with the right to interfere in the domestic affairs of a State and to assume responsibility for its domestic laws and regulations. The fundamental purpose and the crux of the resolution were to be found in its demand for the withdrawal of the Belgian forces. The United Nations Force must also be entrusted with safeguarding the territorial integrity of the Republic of the Congo. No other interpretation of the resolution of 14 July could be correct or consistent with the provisions of the Charter.^{119/}

Decision of 9 August 1960 (886th meeting):

- (i) *Confirming the authority given to the Secretary-General by the resolutions of 14 July and 22 July 1960 and requesting him to continue to carry out the responsibility placed on him thereby;*
- (ii) *Calling upon the Government of Belgium to withdraw immediately its troops from the province of Katanga under speedy modalities determined by the Secretary-General;*
- (iii) *Declaring that the entry of the United Nations Force into the province of Katanga was necessary for the full implementation of this resolution;*
- (iv) *Reaffirming that the United Nations Force in the Congo would not be a party to or in any way intervene in or be used to influence the outcome of any internal conflict, constitutional or otherwise;*
- (v) *Calling upon all Member States, in accordance with Articles 25 and 49 of the Charter, to carry out the decisions of the Security Council and*

to afford mutual assistance in carrying out measures decided upon by the Council;

- (vi) *Requesting the Secretary-General to implement this resolution and to report further to the Council.*

On 6 August 1960 the Secretary-General submitted to the Security Council his second report^{120/} on the implementation of resolutions S/4387 of 14 July 1960 and S/4405 of 22 July 1960, which the Security Council considered at the 884th to 886th meetings held on 8 and 8/9 August 1960.

The representatives of Belgium and of the Republic of the Congo were invited to take part in the discussion.^{121/}

At the 884th meeting the Secretary-General introduced his report.^{122/}

At the 885th meeting the representative of Tunisia introduced^{123/} a draft resolution^{124/} submitted jointly with Ceylon.

At the same meeting the representative of the USSR submitted a draft resolution^{125/} whereby the Security Council would: (1) note that the Belgian Government was grossly violating the decisions of the Security Council calling for the speedy withdrawal of Belgian troops from the territory of the Congo and the maintenance of the territorial integrity and political independence of the Republic of the Congo; (2) impose on the Secretary-General the obligation to take decisive measures, without hesitating to use any means to that end, to remove the Belgian troops from the territory of the Congo and to put an end to acts directed against the territorial integrity of the Republic of the Congo; and (3) instruct the Secretary-General to report within a period of three days on the measures taken to implement this decision of the Security Council.

At the 886th meeting the representative of Ceylon, quoting operative paragraph 2 of the Ceylonese-Tunisian draft resolution, whereby the Security Council would ask the Government of Belgium to withdraw immediately its troops from the province of Katanga under speedy modalities determined by the Secretary-General and "to assist in every possible way the implementation of the Council's resolutions", stated that the last words were taken from the Charter and that it would, therefore, be incumbent upon the Belgian Government to carry out the provisions of the Charter without hesitation.^{126/}

^{120/} S/4417, O.R., 15th year, Suppl. for July-Sept. 1960, pp. 45-53, para. 10.

^{121/} 884th meeting: para. 4.

^{122/} 884th meeting: paras. 10-35. For the statement of the Secretary-General, see chapter I, Cases 21, 22 and 45; in connexion with the definition of the area of operation of the United Nations Force, see chapter V, Case 2; in connexion with the limitations of the powers of the United Nations Force in the Congo with regard to the use of force, see chapter V, Case 2 (iii); in connexion with the consideration of the provisions of Articles 25 and 49, see chapter XII, Case 22 and chapter XI, part IV, Note.

^{123/} 885th meeting: para. 76.

^{124/} S/4424, same text as resolution S/4426, see below; 885th meeting: para. 76.

^{125/} S/4425, 885th meeting: para. 119.

^{126/} 886th meeting: para. 26.

^{118/} 879th meeting: para. 109.

^{119/} 879th meeting: paras. 115-122.

The representative of the United Kingdom pointed out that the joint draft resolution provided for the immediate withdrawal of the Belgian forces "under speedy modalities determined by the Secretary-General" and felt that it would be of value to the Council if the Secretary-General would state how he would interpret this language.^{127/}

In reply, the Secretary-General stated that he read the phrase "speedy modalities" as a recognition of the need for him to implement the request for immediate withdrawal addressed to the Government of Belgium in such a way as to provide for an orderly development within the limits of the possible, as determined also by factors over which others were the masters, with due regard to the overriding needs of the situation. Thus, the Secretary-General read the phrase as entitling him, *inter alia*, to have regard to the concern expressed by the Council that there should be effective and continued maintenance of law and order. That would not slow down the withdrawal provided that the Belgian Government and Mr. Tshombé gave their full and immediate co-operation. There were, however, other related considerations which were bound to influence the Secretary-General in determining the modalities and the establishment of speedy timetables.^{128/}

At the 886th meeting on 8/9 August 1960, the Security Council adopted the joint draft resolution submitted by Ceylon and Tunisia by 9 votes in favour to none against, with 2 abstentions.^{129/}

The resolution^{130/} read;

"The Security Council,

"Recalling its resolution of 22 July 1960 (S/4405), inter alia, calling upon the Government of Belgium to implement speedily the Security Council resolution of 14 July (S/4387) on the withdrawal of its troops and authorizing the Secretary-General to take all necessary action to this effect,

"Having noted the second report of the Secretary-General [S/4417] on the implementation of the aforesaid two resolutions and his statement before the Council,

"Having considered the statements made by the representatives of Belgium and the Republic of the Congo to this Council at this meeting,

"Noting with satisfaction the progress made by the United Nations in carrying out the Security Council resolutions in respect of the territory of the Republic of the Congo other than the province of Katanga,

"Noting, however, that the United Nations had been prevented from implementing the aforesaid resolutions in the province of Katanga although it was ready, and in fact attempted, to do so,

"Recognizing that the withdrawal of Belgian troops from the province of Katanga will be a positive contribution to and essential for the proper implementation of the Council resolutions,

"1. Confirms the authority given to the Secretary-General by the Security Council resolutions of 14 July and 22 July 1960 and requests him to continue to carry out the responsibility placed on him thereby;

"2. Calls upon the Government of Belgium to withdraw immediately its troops from the province of Katanga under speedy modalities determined by the Secretary-General and to assist in every possible way the implementation of the Council's resolutions;

"3. Declares that the entry of the United Nations Force into the province of Katanga is necessary for the full implementation of this resolution;

"4. Reaffirms that the United Nations Force in the Congo will not be a party to or in any way intervene in or be used to influence the outcome of any internal conflict, constitutional or otherwise;

"5. Calls upon all Member States, in accordance with Articles 25 and 49 of the Charter of the United Nations, to accept and carry out the decisions of the Security Council and to afford mutual assistance in carrying out measures decided upon by the Council;

"6. Requests the Secretary-General to implement this resolution and to report further to the Council as appropriate."

The representative of the USSR stated that he would not press for a vote on the USSR draft resolution.^{131/}

Decision of 22 August 1960 (889th meeting): Statement by the President expressing the conviction that the Secretary-General had found in the debate the desired clarification to assist him in the pursuit of his mission

On 12 August 1960 the Secretary-General informed the Security Council of the interpretation which he had given to the Central Government of the Republic of the Congo, as well as to the provincial government of Katanga, of operative paragraph 4 of the resolution of 9 August, contained in the "Memorandum on the implementation of the Security Council resolution of 9 August 1960, operative paragraph 4".^{132/} He noted that the resolution, in addition to reaffirming the principle of non-intervention in any internal conflict, had put the main emphasis on the withdrawal of Belgian troops. Consequently, in the application of operative paragraph 4 to the situation in Katanga, as seen in the light of precedents in the cases of Lebanon and Hungary, it could be concluded

"that if the Belgian troops were withdrawn and if, pending full withdrawal, a Belgian assurance were given to the Secretary-General that the Belgian troops would in no way intervene in or be used to influence the outcome of the conflict between the provincial government and the Central Government—that is to say, that they would remain completely inactive during the phasing out—the question between the provincial government and the Central

^{127/} 886th meeting: para. 159.

^{128/} 886th meeting: paras. 169, 170.

^{129/} 886th meeting: para. 272.

^{130/} S/4426, O.R., 15th year, Suppl. for July-Sept. 1960, pp. 91-92.

^{131/} 886th meeting: para. 273.

^{132/} S/4417/Add.1, O.R., 15th year, Suppl. for July-Sept. 1960, pp. 64-71. For the contents of the memorandum, the letter of the Prime Minister of the Republic of the Congo of 14 August 1960 and the debate at the 887th to 889th meetings, see chapter V, Case 2 (ii).

Government would be one in which the United Nations would in no sense be a party and on which it could in no sense exert an influence. . . ."

The Secretary-General stated further that were his findings, as regards operative paragraph 4, to be challenged either by the Central Government or the provincial government, he would immediately report to the Security Council and request it to consider the interpretation and pronounce itself on its validity.

In a letter^{133/} dated 14 August 1960, the Prime Minister of the Republic of the Congo contested the Secretary-General's interpretation.

At the 887th meeting on 21 August 1960, convened at the Secretary-General's request,^{134/} the representatives of the Congo and of Guinea were invited to take part in the discussion.^{135/}

In his explanatory statement the Secretary-General pointed out that although in the light of the legal history of the matter he did not see any reason for the Council to confirm the interpretation he had given in the memorandum of 12 August, he felt that the Council might clarify its attitude, which was the only reason for his request for the meeting.^{136/}

At the 888th meeting on 21 August 1960, the representative of the USSR raised objections to the Secretary-General's interpretation of the resolution of 9 August 1960. He also submitted^{137/} a draft resolution^{138/} which provided for the establishment by the Security Council of a group consisting of representatives of Member States supplying armed forces to assist the Republic of the Congo, which, acting in conjunction with the Secretary-General, might ensure on the spot the execution of the decisions of the Security Council.

The representative of Tunisia observed that the spirit in which the decisions of the Council had been implemented seemed in no way contrary to those decisions, and still less to the principles which had guided the United Nations intervention.^{139/}

The representative of Argentina endorsed the Secretary-General's interpretation of operative paragraph 4 of the resolution of 9 August.^{140/}

^{133/} S/4417/Add.7, document II, O.R., 15th year, Suppl. for July-Sept. 1960, pp. 71-73. See also S/4448, *ibid.*, pp. 107-109. The interpretation of the Secretary-General was implicitly criticized in the statement of the Government of the USSR on the situation in the Congo, S/4450, *ibid.*, pp. 109-112, para. 14.

^{134/} 887th meeting: para. 7.

^{135/} 887th meeting: paras. 2, 4.

^{136/} 887th meeting: paras. 39, 41, 51. For the statement of the Secretary-General, see chapter I, Cases 25, 26 and 46: in connexion with the limitations of the powers of the United Nations Force with regard to the principle of non-intervention in domestic matters, see chapter V, Case 2 (ii); with regard to the use of force, see chapter V, Case 2 (iii); in connexion with a proposal concerning the establishment of a group of observers in the Congo, see chapter V, Case 6; in connexion with the legal status of Kamina and Kitona bases, see chapter XI, part I, Note.

^{137/} 888th meeting: para. 80. See chapter V, Case 6. For the statement of the representative of the USSR objecting to the interpretation given by the Secretary-General, see chapter V, Case 2 (ii).

^{138/} S/4453, O.R., 15th year, Suppl. for July-Sept. 1960, p. 116.

^{139/} 888th meeting: para. 132.

^{140/} 888th meeting: para. 149.

At the 889th meeting on 21/22 August 1960, at which the representative of Belgium was invited to participate in the discussion,^{141/} the Secretary-General's interpretation was further endorsed by the representatives of Italy, Ceylon, Ecuador, the United Kingdom, the United States and China,^{142/} while the representative of Poland expressed his disagreement.^{143/}

The representative of the USSR stated that he would not press for a vote on the USSR draft resolution since most of the members of the Council were not prepared to support it.^{144/}

The President (France) made the following "final observation":

"The Secretary-General asked for this meeting to be convened so that he might obtain clarification, for his own guidance, of the views of the Security Council. We have listened, throughout the day and even into the early hours of this morning, to different and sometimes conflicting opinions. I believe that on both sides everything has been said to bring out their respective points of view. I am convinced that the Secretary-General will have found in this debate the clarification which he desired, and that it will assist him in the pursuit of his mission. If there are no other observations, I shall declare the meeting adjourned."^{145/}

Decisions of 10 September 1960 (897th meeting):

Adjournment and statement by the President interpreting the consensus of the Council

On 30 August 1960 the Secretary-General submitted his third report^{146/} and on 7 September 1960 his fourth^{147/} on the implementation of Security Council resolutions S/4387 of 14 July 1960, S/4405 of 22 July 1960 and S/4426 of 9 August 1960.

By letter^{148/} dated 7 September 1960 the Secretary-General requested the President of the Security Council to convene a meeting of the Council for consideration of his fourth report on the question of the Congo.

By letter^{149/} dated 8 September 1960 the representative of Yugoslavia requested the President of the Security Council, in accordance with Article 35 (1) of the Charter, urgently to convene the Council to consider the situation in the Republic of the Congo, which Yugoslavia considered was threatening "to bring into greatest peril peace in the world" and required "an appropriate action without delay by the Security Council".

By telegram^{150/} dated 8 September 1960 addressed to the Secretary-General, the Prime Minister of the Republic of the Congo, referring to Article 28 (3) of the Charter, urged the Secretary-General to desig-

^{141/} 889th meeting: para. 1.

^{142/} 889th meeting: paras. 8, 50, 59, 70, 96, 114.

^{143/} 889th meeting: paras. 84, 85.

^{144/} 889th meeting: para. 142.

^{145/} 889th meeting: paras. 144, 145.

^{146/} S/4475, O.R., 15th year, Suppl. for July-Sept. 1960, pp. 126-129, supplemented by S/4475/Add.1-3.

^{147/} S/4482, *ibid.*, pp. 135-139.

^{148/} S/4488, *ibid.*, p. 145.

^{149/} S/4485, *ibid.*, pp. 143-144.

^{150/} S/4486, *ibid.*, p. 145.

nate Leopoldville as the place of the next Council meeting on the problem of the Congo.

By letter^{151/} dated 9 September 1960, the First Deputy Minister for Foreign Affairs of the USSR transmitted to the Secretary-General the text of a statement by the Government of the USSR informing him that it had instructed its representative on the Security Council to request an immediate meeting of the Council "with a view to measures being taken without delay to put an end to all interference of whatever kind in the internal affairs of the Congo".

At the 896th meeting on 9/10 September 1960, the Council adopted^{152/} the following agenda:

"...

- "2. Telegram dated 8 September 1960 from the Prime Minister of the Republic of the Congo addressed to the Secretary-General (S/4486).
- "3. Letter dated 13 July 1960 from the Secretary-General addressed to the President of the Security Council (S/4381): fourth report of the Secretary-General on the implementation of Security Council resolutions S/4387 of 14 July 1960, S/4405 of 22 July 1960 and S/4426 of 9 August 1960 (S/4482 and Add.1); letter dated 8 September 1960 from the Permanent Representative of Yugoslavia to the United Nations addressed to the President of the Security Council (S/4485)."

The following representatives were invited to take part in the discussion, the invitations being renewed at each of the subsequent meetings: at the 896th meeting, the representatives of Yugoslavia and Indonesia; at the 897th meeting, the representative of Ghana; at the 899th meeting, the representatives of Guinea and Morocco; at the 902nd meeting, the representative of Belgium; at the 903rd meeting, the representative of the United Arab Republic; at the 906th meeting, the representatives of Ethiopia and Liberia.^{153/}

At the 896th meeting the representative of the USSR submitted a draft resolution^{154/} whereby the Council would decide to hold a special meeting in Leopoldville to consider the situation in the Congo. The draft resolution was rejected,^{155/} and the Council proceeded to consider point 3 of the agenda.

The Secretary-General made a statement on "the constitutional conflict" in Leopoldville and its repercussions on the United Nations action in the Congo.^{156/}

^{151/} S/4497, *ibid.*, pp. 147-150, para. 14.

^{152/} 896th meeting: para. 29. For the adoption of the agenda, see chapter II, Case 5.

^{153/} 896th meeting: paras. 30, 31; 897th meeting: para. 3; 899th meeting: para. 4; 902nd meeting: para. 2; 903rd meeting: para. 22; 906th meeting: para. 2.

^{154/} S/4494, 896th meeting: paras. 13, 54. For the consideration of the USSR draft resolution, see chapter I, Case 6.

^{155/} 896th meeting: paras. 81, 82.

^{156/} 896th meeting: paras. 83-111. For the statement of the Secretary-General, see chapter I, Cases 11, 27, 28 and 29; for the consideration of the provisions of Article 2 (7), see chapter XII, Case 13; for the consideration of the provisions of Article 25, and Article 49, see chapter XII, Case 23 and chapter XI, part IV, Note.

The representative of Tunisia, referring to a motion for the adjournment of the meeting made by the representative of the United Kingdom,^{157/} pointed out that the statement by the Secretary-General had emphasized the gravity of the situation in the Congo, and expressed the hope that until such time as the Council had decided on what measures to take, in conformity with Article 40 of the Charter, no action would be taken in the Republic of the Congo that might aggravate a situation which was already serious.^{158/}

At the 897th meeting on 10 September 1960, the Council had before it a telegram^{159/} of the Central Government of the Republic of the Congo requesting postponement of the meeting until the arrival of the delegation of the Congo.

The representative of the United Kingdom stated that he was prepared to agree to the requested postponement of the meeting on the understanding that in the interval no action likely to aggravate the situation in the Congo would be taken by any Members of the United Nations and he gave his full support to the statement of the representative of Tunisia made at the 896th meeting.^{160/} Similar views were expressed by the representatives of Ecuador, the United States, Argentina and Ceylon.^{161/}

After a suspension of the meeting, the representative of Tunisia proposed that the meeting be adjourned to 12 September 1960.^{162/}

The President (Italy), having declared that the proposal was adopted,^{163/} stated:

"In consideration of the decision to adjourn the meeting, as President of this Council, certain that I am interpreting the consensus of opinion around this table, I should like to stress how important it is that, in conformity with the letter and spirit of the Charter of the United Nations, no action should be taken by any party which might worsen the already very grave situation with which we are confronted in the Congo. The representative of Tunisia, at the close of last night's meeting, made an appeal to that effect. As many speakers have previously referred to his statement, I should like to quote a pertinent part of it:

"The clear and precise statement made at this meeting by the Secretary-General served to emphasize still further the gravity of the situation to which the Council must give its serious attention.

"Now that the matter is before it, the Council must, in full awareness of its responsibilities, take such decisions as it deems proper to maintain international peace and security. Since, however, a motion for adjournment has been made my delegation wishes to express the fervent hope that, until such time as the Security Council has decided what measures to take at the close of the debate,

^{157/} 896th meeting: para. 155.

^{158/} 896th meeting: paras. 159, 160.

^{159/} S/4496, 897th meeting: para. 4.

^{160/} 897th meeting: paras. 11, 13.

^{161/} 897th meeting: paras. 22, 24, 31, 51 and 52.

^{162/} 897th meeting: para. 79.

^{163/} 897th meeting: paras. 82-85.

in conformity with the spirit if not the letter of Article 40 of the United Nations Charter no action will be taken in the Republic of the Congo which might aggravate an already serious situation.' [896th meeting, paras. 159 and 160.]

"In this connexion may I remind the Council that it has already taken, on two previous occasions, a very definite position on this point. Operative paragraph 2 of the resolution adopted by the Council on 22 July [S/4405] contains a specific request to all States 'to refrain from any action which might tend to impede the restoration of law and order' in the Congo. Similarly, in operative paragraph 5 of the resolution adopted on 9 August [S/4426], the Council:

"Calls upon all Member States, in accordance with Articles 25 and 49 of the Charter of the United Nations, to accept and carry out the decisions of the Security Council and to afford mutual assistance in carrying out measures decided upon by the Security Council.'

"The decisions which have been made by the Council in its wisdom appear to be of the utmost relevance at this juncture, in the face of the grave situation and the serious events of which the Secretary-General has apprised us. The Council, by deciding to postpone until Monday its final deliberations, has taken a serious responsibility, because of the critical circumstances at present prevailing in that country. In this awareness, I am sure that I am interpreting the consensus of the Council when I reiterate a strong appeal that no action should be taken that could by any means aggravate the present situation until the resumption of our debate."

The representative of Poland agreed with that part of the President's statement which called upon all parties not to aggravate the situation in the Congo, but expressed the view that the reference to all the other problems unnecessarily enlarged the issue. He reserved his right to comment on these matters at the next meeting.^{164/}

The President stated:

"I deemed it fit to make my statement in response to suggestions and requests which came from members of this Council and which I welcomed. I thought that the statement might help in the situation, and it was in that light that I decided to make it. The representative of Poland has made some comments on my statement and has reserved his right to elaborate on them at a future meeting. That means that I am not in a position to comment on his comments on the considerations advanced by me. That will be done when he has had an opportunity to make his comments. I do think, however, that my statement responded to a situation which made it necessary, and I hope that, in the light of that situation, all the members of the Council will approve it."^{165/}

*Decisions of 17 September 1960 (906th meeting):
Rejection of the USSR draft resolution;
rejection of the Ceylonese-Tunisian joint draft resolution*

^{164/} 897th meeting: paras. 94, 95.

^{165/} 897th meeting: para. 96.

By letter ^{166/} dated 12 September 1960, the representative of the USSR requested the President of the Security Council to call a meeting of the Council for urgent consideration of the question of the implementation of the Council's resolutions of 14 and 22 July and of 9 August 1960.

At the 899th meeting on 14 September 1960, the Security Council considered the following agenda:^{167/}

" . . .

- "3. Letter dated 13 July 1960 from the Secretary-General addressed to the President of the Security Council (S/4381); fourth report of the Secretary-General on the implementation of Security Council resolutions S/4387 of 14 July 1960, S/4405 of 22 July 1960 and S/4426 of 9 August 1960 (S/4482 and Add.1-3); letter dated 8 September 1960 from the Permanent Representative of Yugoslavia to the United Nations addressed to the President of the Security Council (S/4485); letter dated 12 September 1960 from the representative of the Union of Soviet Socialist Republics addressed to the President of the Security Council (S/4506)."

The President (Italy) drew the attention of the Council to documents S/4504 and Add.1,^{168/} containing cables relating to the appointment of two different delegations from the Congo to participate in the discussion. The representative of Poland proposed that the Council invite the delegation headed by Mr. Kanza.^{169/} At the 900th meeting on 14 September 1960, this proposal was not adopted.^{170/}

At the 902nd meeting on 15 September 1960 the representative of the United States submitted a draft resolution^{171/} whereby the Security Council would: (1) urge the Secretary-General to continue to give vigorous effect to the resolutions of the Council; (2) call upon Member Governments to make voluntary financial contributions to a United Nations fund for the Congo, to be used under United Nations control as determined by the Secretary-General, for the financing of the necessary governmental expenditures not covered by governmental revenue owing to the disruption of the administration and civilian life; (3) urge all parties to the internal conflicts within the Republic of the Congo, in the interest of its unity and integrity, to seek a speedy settlement by peaceful means with such assistance from the Secretary-General as might be required; (4) reaffirm its request to all States to refrain from any action which might tend to impede the restoration of law and order and in particular from sending personnel, supplies and equipment to be used for military purposes in the Congo other than through the United Nations in accordance with its responsibilities under the pertinent resolutions of the Security Council; and (5) reaffirm that the United Nations Force should

^{166/} S/4506, C.R., 15th year, Suppl. for July-Sept. 1960, pp. 160-162.

^{167/} As point 2 of the agenda the Security Council considered in private the report of the Security Council to the General Assembly.

^{168/} O.R., 15th year, Suppl. for July-Sept. 1960, pp. 157-158.

^{169/} 899th meeting: para. 34. For consideration of this proposal and the decision, see chapter I, Case 9.

^{170/} 900th meeting: para. 87.

^{171/} S/4516, 902nd meeting: para. 45.

continue to act to restore and maintain order as necessary for the maintenance of international peace and security.

At the 903rd meeting on 15 September 1960 the representative of the USSR submitted a draft resolution^{172/} according to which the Security Council would: (1) invite the Secretary-General and the Command of the United Nations Force in the Congo to cease forthwith any form of interference in the internal affairs of the Republic of the Congo so that its Government might exercise without let or hindrance its sovereign rights and authority over the whole territory of the Congo and, in particular, immediately to evacuate armed forces under the control of the United Nations Command from all airports occupied by them and to hand over national radio stations to the complete and unrestricted control of the Central Government of the Congo; (2) instruct the Secretary-General to remove the Command of the United Nations Force, whose actions constituted flagrant violations of the Security Council's decisions on the question of the Congo; and (3) call upon all Member States of the United Nations to provide the Republic of the Congo with speedy financial and other economic assistance through voluntary contributions to be placed directly at the disposal of the Government of the Republic of the Congo.

At the 906th meeting on 16/17 September 1960 the representative of Ceylon introduced a draft resolution^{173/} submitted jointly with Tunisia, whereby the Security Council would: (1) reaffirm its resolutions of 14 and 22 July and 9 August and urge the Secretary-General to continue to give vigorous implementation to them; (2) call upon all Congolese within the Republic of the Congo to seek a speedy solution by peaceful means of all their internal conflicts for the unity and integrity of the Congo; (3) reaffirm that the United Nations Force should continue to act to restore and maintain law and order as necessary for the maintenance of international peace and security; (4) appeal to all Member Governments for urgent voluntary contributions to a United Nations Fund for the Congo to be used under United Nations control and in consultation with the Central Government of the Congo for the purpose of rendering the fullest possible assistance; and (5) reaffirm specifically: (a) its request to all States to refrain from any action which might tend to impede the restoration of law and order and the exercise by the Government of the Congo of its authority and also to refrain from any action which might undermine the territorial integrity and political independence of the Republic of the Congo and decide that no assistance for military purposes be sent to the Congo except as part of the United Nations action; (b) its call to all Member States, in accordance with Articles 25 and 49 of the Charter, to accept and carry out the decisions of the Security Council and to afford mutual assistance in carrying out measures decided upon by the Council.

^{172/} S/4519, 903rd meeting: para. 93.

^{173/} S/4523, O.R., 15th year, Suppl. for July-Sept. 1960, pp. 172-173; 906th meeting: para. 81.

The representative of the USSR submitted the following amendments to the joint draft resolution:^{174/} (1) in the fourth preambular paragraph to insert after the word "assist" the words "the Central Government of"; (2) in operative paragraph 1 to replace the words "to continue to give vigorous implementation to them" by the words "to implement them strictly"; thereafter, to add the words "permitting no interference in the internal affairs of the Republic of the Congo"; (3) in operative paragraph 3, after the word "should" to delete the words "continue to"; to replace the words "as necessary for the maintenance of international peace and security" by the words "with the view to assisting the Central Government of the Congo to exercise its authority and ensure the territorial integrity and political independence of the Congo"; (4) in operative paragraph 4 to replace the word "consultation" with the word "co-operation"; and (5) in operative paragraph 5 (a) to insert after the words "and also to refrain from any action" the words "including military assistance"; to delete the words "and decides that no assistance for military purposes be sent to the Congo except as part of the United Nations action".

The representative of Tunisia said in clarification that the sponsors had not thought it necessary to repeat throughout the draft resolution a reference to the "Central Government of the Congo" or the "Central Government of the Republic of the Congo", as such reference was understood.^{175/}

At the 906th meeting on 17 September 1960, the USSR draft resolution was rejected by 2 votes in favour to 7 against, with 2 abstentions.^{176/}

Paragraph 1 of the USSR amendment was rejected by 4 votes in favour to 6 against, with 1 abstention^{177/}; paragraph 2 was rejected by 2 votes in favour to 8 against, with 1 abstention^{178/}; paragraph 3 was rejected by 2 votes in favour to 9 against^{179/}; paragraph 4 was rejected by 2 votes in favour to 8 against, with 1 abstention^{180/}; paragraph 5 was rejected by 2 votes in favour to 9 against.^{181/}

The Ceylonese-Tunisian joint draft resolution failed of adoption; there were 8 votes in favour, 2 against, and 1 abstention (one of the negative votes being that of a permanent member).^{182/}

The representative of the United States said that he would not press for a vote on the United States draft resolution.^{183/}

*Decision of 17 September 1960 (906th meeting):
Calling an emergency special session of the General Assembly*

^{174/} S/4524, *ibid.*, pp. 173-174; 906th meeting: paras. 116-124.

^{175/} 906th meeting: para. 130.

^{176/} 906th meeting: para. 148.

^{177/} 906th meeting: para. 152.

^{178/} 906th meeting: para. 153.

^{179/} 906th meeting: para. 154.

^{180/} 906th meeting: para. 155.

^{181/} 906th meeting: para. 156.

^{182/} 906th meeting: para. 157.

^{183/} 906th meeting: para. 169.

At the 906th meeting on 17 September 1960, after the vote on the USSR draft resolution and the Ceylonese-Tunisian joint draft resolution, the representative of the United States submitted a draft resolution,^{184/} by which the Security Council would decide to call an emergency special session of the General Assembly, as provided in General Assembly resolution 377 A (V), with a view to making appropriate recommendations.

At the same meeting the draft resolution submitted by the United States was adopted by 8 votes in favour to 2 against, with 1 abstention.^{185/}

The resolution^{186/} read:

"The Security Council,

"Having considered the item on its agenda as contained in document S/Agenda/906,

"Taking into account that the lack of unanimity of its permanent members at the 906th meeting of the Security Council has prevented it from exercising its primary responsibility for the maintenance of international peace and security,

"Decides to call an emergency special session of the General Assembly as provided in General Assembly resolution 377 A (V) of 3 November 1950, in order to make appropriate recommendations."

Decisions of 14 December 1960 (920th meeting): Rejection of the joint draft resolution submitted by Argentina, Italy, the United Kingdom and the United States; rejection of the USSR draft resolution

On 5 December 1960 the Secretary-General transmitted to the members of the Security Council a report^{187/} from his Special Representative in the Congo regarding actions taken against Mr. Patrice Lumumba.

On 6 December 1960, at the request of the President of the Security Council, a statement^{188/} issued on the same day by the Government of the USSR concerning the situation in the Congo was brought to the attention of the members of the Security Council.

At its 912th meeting on 7 December 1960, the Security Council adopted the following agenda:^{189/}

"Letter dated 13 July 1960 from the Secretary-General addressed to the President of the Security Council (S/4381);

"Urgent measures in connexion with the latest events in the Congo;

"Note by the Secretary-General (S/4571);

"Statement dated 6 December 1960 by the Government of the Union of Soviet Socialist Republics concerning the situation in the Congo (S/4573)."

^{184/} S/4525, 906th meeting; para. 173.

^{185/} 906th meeting; para. 128.

^{186/} S/4526, O.R., 15th year, Suppl. for July-Sept. 1960, p. 174.

^{187/} S/4571 and Add.1, O.R., 15th year, Suppl. for Oct.-Dec. 1960, pp. 67-75.

^{188/} S/4573, *ibid.*, pp. 75-80. In the statement were listed steps to be taken by the Security Council "without the slightest delay".

^{189/} 912th meeting; para. 101.

The following representatives were invited to take part in the discussion, the invitations being renewed at each of the subsequent meetings: at the 913th meeting, the representatives of Mali, Guinea, Congo (Leopoldville), Indonesia, Cameroon and Yugoslavia; at the 914th meeting, the representatives of India and the United Arab Republic; at the 916th meeting, the representative of Morocco.^{190/}

At the 913th meeting on 7 December 1960, the Secretary-General noted at the conclusion of his statement that the United Nations must stand by the mandate already laid down, interpreted strictly in accordance with the principles of the Charter,

"but adjusted to the peculiar circumstances at present prevailing in the Congo. This adjustment unavoidably leads to a serious curtailment for the present of our activities and to great restraint as regards the assistance we can grant."^{191/}

Only through the efforts of the Congolese people themselves could the United Nations assistance make its full contribution.^{192/}

At the 914th meeting on 8 December 1960, the President, speaking as the representative of the USSR, introduced a draft resolution^{193/} according to which the Security Council would: (1) call upon the Secretary-General to secure the immediate release of Mr. Lumumba, Prime Minister of the Republic of the Congo, Mr. Okito, President of the Senate, Mr. Kasongo, President of the Chamber of Representatives, and other Ministers and deputies and, at the same time, to take all the necessary steps to ensure the resumption of the activities of the lawful Government and Parliament of the Republic of the Congo; (2) request the Command of the troops dispatched to the Congo by decision of the Security Council immediately to disarm the terrorist bands of Mobutu; and (3) call upon the Government of Belgium, in accordance with the decision of the Security Council and the special emergency session of the General Assembly, immediately to withdraw Belgian military, paramilitary and civil personnel from the Congo.

The representative of Argentina introduced^{194/} a draft resolution submitted jointly with Italy, the United Kingdom and the United States, which in its

^{190/} 913th meeting; paras. 2, 3, 6-9; 914th meeting; para. 4; 916th meeting; para. 3.

^{191/} In explanation of this last statement, the Secretary-General, at the 916th meeting on 9/10 December 1960, stated that the need for "great restraint" referred "to very practical circumstances, which I think I can most easily illustrate by saying that, of course, we cannot continue the training of an army which has become a political instrument, nor can we help financially with the budget if expenditure is partly of a character which runs counter to our aims" (para. 133).

^{192/} 913th meeting; paras. 12-61. For the statement of the Secretary-General, see chapter I, Case 33; in connexion with the limitations of the powers of the United Nations Force with regard to the use of force, see chapter V, Case 2 (v); for the consideration of Chapter VII of the Charter in general, see chapter XI, Case 4; for the consideration of the provisions of Article 2 (7), see chapter XII, Case 14.

^{193/} S/4579, 914th meeting; para. 62.

^{194/} 914th meeting; para. 80.

revised form^{195/} provided for the Security Council (1) to declare that any violation of human rights in the Republic of the Congo was inconsistent with the purposes that guided the United Nations and to expect that no measures contrary to recognized rules of law and order would be taken by anyone against any person held prisoner or under arrest anywhere in the Republic of the Congo; (2) to express the hope that the International Committee of the Red Cross would be allowed to examine detained persons throughout the Republic of the Congo and their places and conditions of detention and otherwise to obtain the necessary assurances for their safety; and (3) to request the Secretary-General to continue his efforts to assist the Republic of the Congo in the restoration of law and order throughout its territory and in adopting all necessary measures tending to safeguard civil and human rights for all persons within the country.

At the 915th meeting on 8/9 December 1960, the representative of the United Kingdom stated that the resolutions of the Council adopted on 14 and 22 July and 9 August 1960 had provided the Secretary-General with a satisfactory mandate to carry out his responsibility and that no further resolution was required in connexion with his mandate.^{196/}

On 9 December 1960 the Secretary-General transmitted to the members of the Security Council a report^{197/} from his Special Representative in the Congo which noted that, following arrests of a number of Belgians in Stanleyville, the commander of the United Nations Force was instructed by ONUC Headquarters in Leopoldville to provide full protection to the European population with all means that might be required in the circumstances.

At the 917th meeting on 10 December 1960, the representative of Ceylon suggested that the Council should confer on the Secretary-General a mandate to make use of the armed forces at his disposal so as to carry out the purpose of maintaining law and order in the territory of the Congo by all the means that would appear to him to be necessary.^{198/}

At the 920th meeting on 13/14 December 1960, the President, speaking as the representative of the USSR, submitted the following amendments^{199/} to the four-Power draft resolution: (1) in the second preambular paragraph^{200/} to replace the words following "Deeply concerned" by

"at the deterioration in the situation in the Republic of the Congo and at the fact that the deci-

^{195/} S/4578/Rev.1, O.R., 15th year, Suppl. for Oct.-Dec. 1960, pp. 82-83. At the 920th meeting the representative of Argentina stated that the sponsors of the joint draft resolution, in order to make their concern for civil and human rights more specific, had introduced in operative paragraph 3 statements previously to be found in preambular paragraph 3 (920th meeting: para. 12b).

^{196/} 915th meeting: paras. 35, 43.

^{197/} S/4590, O.R., 15th year, Suppl. for Oct.-Dec. 1960, pp. 93-95, paras. 5, 6.

^{198/} 917th meeting: para. 56. See chapter XI, Case 4.

^{199/} S/4597, 920th meeting: para. 53.

^{200/} The paragraph read: "Deeply concerned at the continuation of unsettled conditions in various parts of the Republic of the Congo, which has led to acts of violence against persons of both Congolese and non-Congolese nationality, including United Nations personnel."

sions of the Security Council on the question of the Congo are not being carried out, that the sovereign rights of the Congolese people continue to be violated and that the country's territorial integrity and independence are being undermined by Belgium and other colonial Powers";

(2) to insert the following text as the third preambular paragraph:

"Noting that, as a result of the premeditated and systematic destruction of the democratic foundations of the State Government of the Congo by Mobutu's armed bands, which are financed and supplied by foreign Powers, the functioning of the lawful Central Government and Parliament of the Republic has been paralysed and Prime Minister Patrice Lumumba and a number of leading members of Parliament and members of the Government have been unlawfully deprived of their liberty and are being subjected to other forms of violence."

The third preambular paragraph would accordingly become preambular paragraph 4; (3) in operative paragraph 1 to replace the words following "United Nations and" by

"requests that the Command of the troops, sent to the Congo in accordance with the Security Council's decision, shall take energetic action to ensure the immediate cessation of the criminal violation of law and order in the country by Mobutu's armed bands";

(4) to delete, in view of the amendment to the first operative paragraph, operative paragraph 2; and (5) to replace operative paragraph 3, which would become operative paragraph 2, by the following:

"Requests that the Command of the armed forces, sent to the Congo in accordance with the Security Council's decision, shall take immediate steps to disarm and disperse Mobutu's bands, thereby creating the essential conditions for the restoration of law and order in the country."

At the 920th meeting on 13/14 December 1960, the USSR amendments to the four-Power draft resolution were rejected: the first, second, third and fifth amendments by 2 votes in favour to 8 against, with 1 abstention,^{201/} and the fourth amendment by 2 votes in favour to 7 against, with 2 abstentions.^{202/}

The four-Power draft resolution failed of adoption; there were 7 votes in favour, 3 against, with 1 abstention (one of the negative votes being that of a permanent member).^{203/}

The representative of Poland requested that a separate vote be taken on the last operative paragraph of the USSR draft resolution.^{204/}

The President (USSR) put to the vote operative paragraph 3 of the USSR draft resolution. The para-

^{201/} 920th meeting: paras. 151-153, 155.

^{202/} 920th meeting: para. 154.

^{203/} 920th meeting: para. 156.

^{204/} 920th meeting: para. 157.

graph was rejected by 4 votes in favour to 6 against, with 1 abstention.^{205/}

The USSR draft resolution as a whole was rejected by 2 votes in favour to 8 against, with 1 abstention.^{206/}

Decision of 14 December 1960 (920th meeting): Rejection of the Polish draft resolution

At the 920th meeting on 13/14 December 1960, after the rejection of the four-Power draft resolution and of the USSR draft resolution, the representative of Poland submitted a draft resolution^{207/} according to which the Security Council would: (1) request the Secretary-General to undertake the necessary measures in order to obtain the immediate release of Mr. Lumumba and of all persons under arrest or detention despite their parliamentary immunity; and (2) request the Secretary-General to inform the Security Council as soon as possible of the measures taken and the results thereof.

At the same meeting the Polish draft resolution was rejected^{208/} by 3 votes in favour to 6 against, with 2 abstentions.

Decision of 14 January 1961 (927th meeting): Rejection of the joint draft resolution submitted by Ceylon, Liberia and the United Arab Republic

By *note verbale*^{209/} dated 1 January 1961 to the representative of Belgium, the Secretary-General referred to the report^{210/} from his Special Representative in the Congo that the troops of the Armée nationale congolaise, which had been permitted to land at Usumbura, had been transferred to Bukavu in the Republic of the Congo. This, it was noted, indicated direct or indirect military assistance to the Armée nationale congolaise, in contravention of operative paragraph 6^{211/} of General Assembly resolution 1474 (ES-IV), and the gravity of the situation was accentuated by the fact that such assistance had been rendered in the Trust Territory of Ruanda-Urundi. The Secretary-General requested the Belgian Government to take immediate and effective measures to ensure that Belgian authorities in the Trust Territory of Ruanda-Urundi or elsewhere would lend

^{205/} 920th meeting: para. 158.

^{206/} 920th meeting: para. 159.

^{207/} S/4598, 920th meeting: para. 169.

^{208/} 920th meeting: para. 177.

^{209/} S/4606, document V, O.R., 16th year, Suppl. for Jan.-March 1961, pp. 11-12. In documents S/4606 and Add.1 (*ibid.*, pp. 1-15) the Secretary-General submitted documents concerning the landing of units of the Armée nationale congolaise at Usumbura (Ruanda-Urundi). For the consideration of the obligations for Belgium arising from the Trusteeship Agreement, see chapter XII, Case 28.

^{210/} S/4606, document IV, *ibid.*, pp. 7-11.

^{211/} Operative paragraph 6 of resolution 1474 (ES-IV) reads:

"6. Without prejudice to the sovereign rights of the Republic of the Congo, calls upon all States to refrain from the direct and indirect provision of arms or other materials of war and military personnel and other assistance for military purposes in the Congo during the temporary period of military assistance through the United Nations, except upon the request of the United Nations through the Secretary-General for carrying out the purposes of this resolution and of the resolutions of 14 and 22 July and 9 August 1960 of the Security Council."

no support, directly or indirectly, to military action by Congolese troops.^{212/}

By letter^{213/} dated 4 January 1961 addressed to the President of the Security Council, the representative of the USSR requested that States members of the Security Council should receive information from the Secretary-General on the use of the Trust Territory of Ruanda-Urundi as a Belgian military base for carrying out operations against the Congo.

By letter^{214/} dated 7 January 1961, the representative of the USSR requested the President of the Security Council to convene a meeting of the Council to examine the serious threat to peace and security which it held to have been created by the new acts of Belgian aggression against the Congo and flagrant violation of the international status of the Trust Territory of Ruanda-Urundi.

In a *note verbale*^{215/} dated 11 January 1961 to the Secretary-General, the representative of Belgium stated that the Belgian authorities at Usumbura had treated the contingent of the Armée nationale congolaise correctly and transported the contingent immediately to the frontier of the Congo. In so acting they had not contravened operative paragraph 6 of resolution 1474 (ES-IV). Any other attitude would have been contrary to the Security Council resolution of 22 July 1960, which requested "all States to refrain from any action which might tend to impede the restoration of law and order and the exercise by the Government of the Congo of its authority". It was further stated in the note that there were no longer any Congolese soldiers in Ruanda-Urundi and that the local authorities had been instructed by the Government of Belgium to oppose any unauthorized transit in the future.

At the 924th meeting on 12 January 1961, the Council considered the following agenda:

"Letter dated 13 July 1960 from the Secretary-General addressed to the President of the Security Council (S/4381);

"Note of the Secretary-General (S/4606 and Add.1);

"Letters dated 4 and 7 January 1961 from the Permanent Representative of the Union of Soviet Socialist Republics addressed to the President of the Security Council (S/4614, S/4616)."

The representative of Belgium was invited to participate in the discussion, the invitation being renewed at each of the subsequent meetings; at the 927th meeting the representative of the Republic of the Congo was also invited to take part in the discussion.^{216/}

The representative of the USSR stated that further acts of aggression against the Republic of the Congo had been committed by Belgium from the Trust

^{212/} In a *note verbale* of 2 January 1961 (S/4606/Add.1, document VI, O.R., 16th year, Suppl. for Jan.-March 1961, pp. 12-13) to the representative of Belgium, the Secretary-General reiterated the urgent need for a clarification by the Belgian Government of the situation in Ruanda-Urundi.

^{213/} S/4614, *ibid.*, pp. 17-19.

^{214/} S/4616, *ibid.*, pp. 19-20.

^{215/} S/4621, *ibid.*, pp. 22-27.

^{216/} 924th meeting: para. 1; 927th meeting: para. 26.

Territory of Ruanda-Urundi, in violation of operative paragraph 6 of resolution 1474 (ES-IV). This action also constituted an infringement of the Trusteeship Agreement for the Territory of Ruanda-Urundi and of resolution 1579 (XV) concerning the future of Ruanda-Urundi adopted by the General Assembly on 20 December 1960.^{217/}

The representative of Belgium* stated that when the Belgian Government learned that a contingent of the Armée nationale congolaise had landed at Usumbura, it could have given to the Resident-General of Ruanda-Urundi no instructions other than to have that contingent at once conveyed to the Congolese national frontier. He assured the Council that the Belgian Government did not intend to authorize any further transit in the future.^{218/}

At the 926th meeting on 13 January 1961, the representative of Liberia introduced a draft resolution^{219/} jointly sponsored with Ceylon and the United Arab Republic, according to which the Security Council would: (1) call upon the Government of Belgium as the Administering Authority of the Trust Territory of Ruanda-Urundi immediately to cease all action against the Republic of the Congo and to observe strictly its international obligations under the Trusteeship Agreement and to take immediate steps to prevent the utilization of the Trust Territory of Ruanda-Urundi contrary to the purposes of General Assembly resolutions 1474 (ES-IV) and 1579 (XV) and the Security Council resolutions of 14 and 22 July and 9 August 1960; (2) call upon the Government of Belgium to withdraw immediately from the Republic of the Congo all Belgian military and paramilitary personnel, advisers and technicians; and (3) recommend to the General Assembly to consider the action taken by Belgium as a violation of the Trusteeship Agreement for the Trust Territory of Ruanda-Urundi.

The representative of the United States, in view of assurances by the Belgian Government, reaffirmed in the Security Council by the representative of Belgium, that there were no more Congolese troops within the Trust Territory and that no more would be permitted to enter, stated that if there ever had been any justification for the Council to meet it had now been obviated.^{220/}

At the 927th meeting on 14 January 1961 the draft resolution submitted jointly by Ceylon, Liberia and the United Arab Republic was not adopted; there were 4 votes in favour, with 7 abstentions.^{221/}

Decisions of 21 February 1961 (942nd meeting):

- (1) Rejection of the USSR draft resolution;
- (2) Adoption of the draft resolution submitted by Ceylon, Liberia and the United Arab Republic
 - A (i) Urging the immediate taking of all appropriate measures to prevent the occurrence of civil war in the Congo;

^{217/} 924th meeting: paras. 3, 19, 20.

^{218/} 924th meeting: paras. 47, 51.

^{219/} S/4625, O.R., 16th year, Suppl. for Jan.-March 1961, pp. 30-31; 926th meeting: para. 9.

^{220/} 926th meeting: para. 3b.

^{221/} 927th meeting: para. 94.

(ii) Urging the taking of measures for the immediate withdrawal and evacuation from the Congo of all Belgian and other foreign military and paramilitary personnel and political advisers not under the United Nations Command, and mercenaries;

(iii) Calling upon all States to prevent the departure of such personnel for the Congo from their territories;

(iv) Deciding that an investigation be held in order to ascertain the circumstances of the death of Mr. Lumumba and his colleagues and that the perpetrators of these crimes be punished;

(v) Reaffirming the Security Council resolutions of 14 July, 22 July and 9 August 1960 and the General Assembly resolution 1474 (ES-IV) of 20 September 1960 and reminding all States of their obligation under these resolutions;

- B (i) Urging the convening of the Parliament;
- (ii) Urging the re-organization of Congolese armed units and personnel;
- (iii) Calling upon all States to extend their full co-operation for the implementation of this resolution;

(3) Rejection of the joint draft resolution submitted by Ceylon, Liberia and the United Arab Republic.

By note^{222/} dated 23 January 1961 the Secretary-General brought to the attention of the Members of the Security Council communications concerning Mr. Lumumba and other related subjects.

^{222/} S/4637, O.R., 16th year, Suppl. for Jan.-March 1961, pp. 54-59. By letter dated 19 January 1961 the Secretary-General informed the President of the Republic of the Congo (Leopoldville) about the grave concern regarding the transfer of Mr. Lumumba to Katanga and urged him to take immediate measures to have Mr. Lumumba return from Katanga and that, unless released, he be given the opportunity to answer the charges against him in a fair and public hearing (document I, *ibid.*, pp. 54-55). By message dated 19 January 1961 addressed through his Special Representative in the Congo to Mr. Tshombé, the Secretary-General stated that it had been his understanding that the Katanga authorities had been presented by Mr. Lumumba's transfer with a *fait accompli*; that Mr. Tshombé would consider what steps could properly be taken so that Mr. Lumumba and his companions might be given the benefit of due process of law at the place of competent jurisdiction (document II, *ibid.*, p. 55). By letter dated 20 January 1961 the Secretary-General informed the President of the Republic of the Congo that the Advisory Committee considered it appropriate to draw his urgent attention to the serious bearing on the efforts towards reconciliation and political unification which the continued imprisonment of Mr. Lumumba seemed to it to have. The political significance of those observations was enhanced by Mr. Lumumba's transfer, which could not but aggravate the complications created by his arrest and detention (document III, *ibid.*, pp. 56-57). By message dated 23 January 1961 addressed through his Special Representative in the Congo to Mr. Gizenga in Stanleyville, the Secretary-General drew Mr. Gizenga's attention to confirmed reports in Oriental Province indicating that a very large number of violations of the most basic human rights of both Congolese and non-Congolese elements of the population had taken place. The Secretary-General asked that the most vigorous steps be taken to ensure that the the Armée nationale congolaise units in the Stanleyville area assume their function of the maintenance of internal security (document V, *ibid.*, pp. 58-59). By message received by the Secretary-General on 1 February 1961, Mr. Tshombé informed him that the transfer of Mr. Lumumba to Katanga had been effected on the initiative of the President of the Congo and expressed the view that for the time being, in the interest of restoring general calm, there should be no contact between Mr. Lumumba and the outside world (S/4637/Add.1, *ibid.*, p. 59).

By letter^{223/} dated 24 January 1961, the President of the Republic of the Congo and the President of the College of Commissioners-General and Commissioner-General for Foreign Affairs informed the President of the Security Council that the Government of the Republic of the Congo had taken cognizance of the violation of its national sovereignty and of the flagrant interference in its domestic affairs by the United Arab Republic^{224/} which constituted a breach of General Assembly resolution 1474 (ES-IV) of 20 September 1960 and of the Charter. In view of this grave situation, which was considered to be the result of foreign intervention in the Republic of the Congo and to present a danger to international peace and security, the President of the Security Council was requested to call a meeting of the Council to examine the situation and to take appropriate measures. In submitting this question, the Government of the Congo referred to Articles 24, 34 and 35 (1) of the Charter and to rule 3 of the provisional rules of procedure of the Security Council.

By letter^{225/} dated 26 January 1961, the permanent representatives of Ceylon, Ghana, Guinea, Mali, Morocco, the United Arab Republic and Yugoslavia informed the President of the Security Council that their Governments strongly protested against the inhuman and brutal treatment to which Mr. Lumumba, Prime Minister of the Republic of the Congo, Mr. Okito, Vice-President of the Senate, and Mr. Mpolo, Minister of Youth, had been subjected upon their illegal transfer to Katanga. They further noted that the continued illegal incarceration of Mr. Lumumba would increase disunity and render extremely difficult the preservation of the Congo's territorial integrity and the establishment of law and order. Fruitful negotiations aiming at increasing harmony among political factions and at preserving the Congo's territorial integrity could not be conducted as long as some of the Congo's prominent national leaders remained illegally detained. The President of the Security Council was, therefore, requested to convene a meeting of the Council "to examine the alarming recent developments in the Congo, which are hampering efforts for the preservation of law and order in that country, as well as its territorial integrity, and which, therefore, endanger international peace and security".

By note verbale^{226/} dated 29 January 1961, the permanent representative of Libya joined in the request and requested the President of the Security

Council that his name be added to the list of signatories of the letter of request (S/4641).

In a letter^{227/} dated 29 January 1961 addressed to the President of the Security Council, the permanent representative of the USSR stated that the situation in the Republic of the Congo constituted a real threat not only to Africa but to the whole world. The principal cause of all the difficulties was the continued Belgian aggression against the Congo. The illegal arrest of Prime Minister Lumumba and his subsequent surrender to the former Belgian colonial administration in Katanga had further complicated the situation in the Congo and increased the grave threat to international peace and security. He requested the President of the Security Council to take up immediately the situation resulting from the new acts of Belgian aggression.

At the 928th meeting on 1 February 1961, the Security Council adopted^{228/} the following agenda:

"Letter dated 13 July 1960 from the Secretary-General addressed to the President of the Security Council (S/4381);

"Letter dated 26 January 1961 from the permanent representatives of Ceylon, Ghana, Guinea, Libya, Mali, Morocco, United Arab Republic and Yugoslavia addressed to the President of the Security Council (S/4641 and S/4650);^{229/}

"Telegram dated 24 January 1961 from the President of the Republic of the Congo (Leopoldville) and the President of the College of Commissioners-General and Commissioner-General for Foreign Affairs addressed to the President of the Security Council (S/4639);

"Letter dated 29 January 1961 from the Permanent Representative of the Union of Soviet Socialist Republics to the President of the Security Council (S/4644)."

The following representatives were invited to participate in the discussion, the invitations being renewed at each of the subsequent meetings: at the 928th meeting, the representatives of Mali, India, Yugoslavia, Indonesia, Belgium, Guinea, Ghana, Congo (Leopoldville), Morocco, Poland and Libya; at the 934th meeting, the representatives of Sudan, Nigeria, Madagascar, Cameroon, Congo (Brazzaville), Senegal, Gabon; at the 935th meeting, the representatives of the Central African Republic, Upper Volta and Iraq; at the 936th meeting, the representative of Czechoslovakia; at the 941st meeting, the representative of Pakistan.^{230/}

At the 928th meeting on 1 February 1961, the Secretary-General made a statement commenting on "important elements" in the current situation in the Congo, in which he dealt with domestic political

^{223/} S/4639, O.R., 16th year, Suppl. for Jan.-March 1961, pp. 59-60.

^{224/} By letter dated 7 January 1961, the President of the Republic of the Congo (Leopoldville) and the Commissioner-General for Foreign Affairs sent to the Special Representative of the Secretary-General in the Congo a memorandum concerning the activities of the United Nations in the Congo. In the memorandum it was stated that an aircraft whose registration marks appeared to connect it with the United Arab Republic landed at Lisala on 31 December 1960, without clearance to fly over or land in the country. The United Arab Republic troops belonging to the United Nations Force apparently had prevented all contacts between the legal authorities and the crew of the aircraft, thus implying support of that country for the rebel agitators in Oriental and Kivu Provinces (S/4630, O.R., 16th year, Suppl. for Jan.-March 1961, p. 43, para. 10).

^{225/} S/4641, *ibid.*, pp. 62-63.

^{226/} S/4650, *ibid.*, pp. 70-71.

^{227/} S/4644, *ibid.*, pp. 66-67.

^{228/} 928th meeting: para. 55.

^{229/} In the agenda of the 929th-932nd, 934th-939th, 941st and 942nd meetings, after Guinea, Libya was included as a signatory of the letter and document number S/4650 was added after S/4641. The 933rd and 940th meetings were adjourned without the adoption of the agenda.

^{230/} 928th meeting: paras. 57, 94; 934th meeting: para. 22; 935th meeting: paras. 1-2.

development, the problem of interference from outside and the problem of the various units of the Armée nationale congolaise, as regards its role in relation to the domestic political development and as an element in the interplay between foreign Powers and groups within the Congo.^{231/}

At the 933rd meeting on 13 February 1961, the Secretary-General stated that after the circulation of the report^{232/} from his Special Representative in the Congo regarding Mr. Lumumba, he was informed^{233/} that Mr. Patrice Lumumba and his associates, Messrs. Okito and Mpolo, had been assassinated. He proposed that this report, which was of a most serious and tragic nature, be added to the agenda, noting that the matter was of such a character and significance that an impartial, international investigation was necessary.^{234/} The meeting adjourned without adopting the agenda.

At the 934th meeting on 15 February 1961, to the agenda adopted^{235/} at the 928th meeting the following was added:

"Report to the Secretary-General from his Special Representative in the Congo regarding Mr. Patrice Lumumba (S/4688 and Add.1)"

At the same meeting, the representative of the USSR submitted a draft resolution^{236/} whereby the Security Council would: (1) decisively condemn the actions of Belgium which had led to the murder of Messrs. Lumumba, Okito and Mpolo; (2) deem it essential that the sanctions provided under Article 41 of the Charter should be applied to Belgium as to an aggressor which by its actions was creating a threat to international peace, and would call on the Member States of the United Nations to apply those sanctions immediately; (3) enjoin the command of the troops that were in the Congo pursuant to the decision of the Security Council immediately to arrest Tshombé and Mobutu in order to deliver them for trial, to disarm all military units and "gendarmierie" forces under their control, and to ensure the immediate disarming and removal from the Congo of all Belgian troops and all Belgian personnel; (4) direct that the "United Nations operation" in the Congo should be discontinued within one month and all foreign troops withdrawn from there so as

^{231/} 928th meeting; paras. 61-93. For the statement of the Secretary-General, see chapter I, Cases 38 and 48; in connexion with the limitations of the powers of the United Nations Force with regard to the use of force, see chapter V, Case 2 (vi); for the consideration of the provisions of Article 2 (7), see chapter XII, Case 15.

^{232/} On 12 February 1961 the Special Representative of the Secretary-General in the Congo forwarded to the Secretary-General a report (S/4688, O.R., 16th year, Suppl. for Jan.-March 1961, pp. 88-95) on the subject of Mr. Patrice Lumumba, containing information about the escape during the night 9/10 February of Messrs. Lumumba, Mpolo and Okito from Kolatay Farm in the province of Katanga, where they had been detained.

^{233/} On 13 February 1961 the Special Representative transmitted (S/4688/Add.1, O.R., 16th year, Suppl. for Jan.-March 1961, pp. 95-97) to the Secretary-General a statement made on the same day by Mr. Munongo, Minister of Interior of the provincial government of Katanga, in which the assassination of Messrs. Lumumba, Okito and Mpolo had been announced.

^{234/} 933rd meeting; paras. 2, 3.

^{235/} 934th meeting; para. 13.

^{236/} S/4706, 934th meeting; para. 112.

to enable the Congolese people to decide its own internal affairs; and (5) deem it essential to dismiss Mr. Hammarskjöld from the post of Secretary-General of the United Nations as a participant in and organizer of the violence committed against the leading statesmen of the Republic of the Congo.

At the 935th meeting on 15 February 1961, the Secretary-General made a statement in which he dealt with points which he held "should determine the judgement regarding the relations of the United Nations to the fate of Mr. Lumumba" and outlined measures to be pursued with regard to the solution of the Congo problem.^{237/}

At the 938th meeting on 17 February 1961, the representative of the United Arab Republic introduced a draft resolution^{238/} submitted jointly with Ceylon and Liberia.

At the 940th meeting on 20 February 1961, the Secretary-General, referring to the report^{239/} of his Special Representative in the Congo, stated that it was for the Council to judge how the latest development should influence United Nations action in relation to the Congo and various groups in the Congo.^{240/} The meeting adjourned without adopting the agenda.

At the 941st meeting on 20 February 1961, the representative of the United Arab Republic introduced a draft resolution^{241/} submitted jointly with Ceylon and Liberia, whereby the Security Council, taking note of the Secretary-General's report (S/4727) of 18 February 1961 and his communication to the Security Council in his statement made at the 940th meeting (preamble, para. 1), would: (1) strongly condemn the unlawful arrests, deportations and assassinations of the political leaders of the Congo; (2) call upon the authorities in Leopoldville, Elisabethville and Kasai immediately to put an end to such practices; (3) call upon the United Nations authorities in the Congo to take all possible measures to prevent the occurrence of such outrages including, if necessary, the use of force as a last resort; and (4) decide upon an impartial investigation to determine the responsibility for these crimes and punishment of the perpetrators of such crimes. The representative requested that priority should be given to a discussion on this joint draft resolution.

^{237/} 935th meeting; paras. 25-36. For the statement of the Secretary-General, see chapter I, Cases 12, 39 and 40; in connexion with the limitations of the powers of the United Nations Force with regard to the use of force, see chapter V, Case 2 (vi); for the consideration of the provisions of Article 2 (7), see chapter XII, Case 15.

^{238/} S/4722, same text as S/4741, see below; 938th meeting; para. 24.

^{239/} S/4727 and Add.1-3, O.R., 16th year, Suppl. for Jan.-March 1961, pp. 131-137. In his report dated 18 February 1961, the Special Representative reported on a wave of arbitrary arrests of political personalities in Leopoldville in October and November 1960. During the previous week, arrests of political personalities had been resumed in Leopoldville and deportations were taking place to Bakwanga in South Kasai. On 20 February, the Special Representative reported that a Mr. Kabeya, who described himself as a Minister for Justice for the so-called *Etat minier* of South Kasai, had notified him that Messrs. Finant, Fataki, Yangare, Muzungu, Elengenza and Nzuzi were sentenced to death and Mr. Kamanga was sentenced to five years of imprisonment.

^{240/} 940th meeting; paras. 3-6.

^{241/} S/4733, see S/4733/Rev.1 and foot-note 23, O.R., 16th year, Suppl. for Jan.-March 1961, pp. 142-143; 941st meeting; para. 3.

At the same meeting the representative of Liberia submitted a draft resolution^{242/} according to which the Security Council would resolve that the meeting should rise and that its next meeting would be held in the Congo or in a nearby country upon the invitation of its Government for the purpose of meeting the political leaders of the Congo.

The representative of the United States, referring to part A of the joint draft resolution S/4722, stated that his delegation would like to have seen covered more specifically the following points: the responsibility of the Secretary-General for carrying out the resolution, recognition that the United Nations was in the Congo to assist and uphold its sovereignty and independence, and the prohibition of outside interference through the provision of supplies and "matériel" as well as personnel. It was obvious that any Security Council resolution calling for United Nations action must be implemented by the Secretary-General. Finally, the representative regretted that operative paragraph 3 did not specifically call upon all States not only to prevent the departure of military and paramilitary personnel for the Congo but also to prevent the sending of military "matériel", directly or indirectly. He suggested to the sponsors of the draft resolution to revise operative paragraph 3 to read as follows:

"Calls upon all States to take immediate and energetic measures to prevent the departure or provision from their territories for the Congo of any such personnel or of any aid for military purposes, direct or indirect, other than through the United Nations, and to deny any transit or other facilities for any such personnel or any such aid, and requests the United Nations to take the necessary measures to interdict any such personnel or aid."^{243/}

The representative of Turkey observed that the joint draft resolution S/4722 reaffirmed the provisions of all previous resolutions of the Council on the Congo, so that the scope and meaning of the text before the Council became precise and clear in the light of existing decisions of the Council as well as of the provisions of the Charter. For example, the principle of non-interference was dealt with directly in operative paragraphs 2 and 3 of part A. These paragraphs were concerned with one particular aspect of intervention—that of personnel. However, paragraph 5 of part A, by reaffirming all the previous resolutions, brought the Council back in a strengthened way to the principle of non-interference in connexion with any of the aspects of the problem that interested the Council. Thus, the mandate of the Secretary-General came also from paragraph 5, and operative paragraph 3 of part B clearly must be interpreted in relation to the entire United Nations stand as it was set out in the previous resolutions. The representative further suggested that the text of draft resolution S/4733 be made another section, part C of draft resolution S/4722, and that operative paragraph 2 of draft resolution S/4733 be revised to read: "Calls upon the authorities in the Congo".^{244/}

^{242/} 941st meeting: para. 23.

^{243/} 941st meeting: paras. 79-82, 84-87.

^{244/} 941st meeting: paras. 91-94.

The representative of China, commenting on the joint draft resolution S/4733, suggested that operative paragraph 2 should read: "Calls upon all the authorities in all parts of the Congo (Leopoldville) immediately to put an end to such practices", and that preambular paragraph 5, reading "Convinced of the responsibility for such crimes of persons in high places" should be deleted. He stated further that his delegation would not support the phrase "including, if necessary, the use of force as a last resort" in operative paragraph 3^{245/} and requested that this phrase be put to the vote separately.

The representative of Ceylon suggested that the first preambular paragraph of draft resolution S/4733 should read:

"The Security Council,

"Taking note of the report of the Special Representative in the Congo, S/4727 of 18 February 1961 and the Secretary-General's communication to the Security Council in his statement of 20 February, bringing to the earnest attention of the Council the atrocities and the assassinations in Leopoldville, Katanga and South Kasai in the Congo,"

and proposed that operative paragraph 2 should read: "Calls upon all concerned in the Congo immediately to put an end to such practices."^{246/}

The representative of Liberia, referring to the joint draft resolution S/4722, part A, operative paragraph 3, stated that his delegation interpreted the provision as including material from any country or other source and that this interpretation was a necessary precaution.^{247/}

The representative of the United States, referring to the interpretation given by the representative of Liberia, assumed that it reflected the views of the other sponsors of the draft resolution, and on that assumption, he was prepared to proceed with the voting on draft resolution S/4722.^{248/}

At the 942nd meeting on 20/21 February 1961 the President, speaking as the representative of the United Kingdom, stated that his delegation could not agree that any part of the joint draft resolution S/4722 could be interpreted to derogate from the principle stated in the fourth preambular paragraph of part B, that "the solution of the problem of the Congo lies in the hands of the Congolese people themselves without any interference from outside". The representative drew attention to part A, operative paragraphs 1 and 4, and part B, operative paragraph 2. Each of them, if taken in isolation, could mean that the United Nations would take action in the Congo by force without appropriate consultation with the representatives of the Congolese people. This interpretation would be extremely dangerous. The representative added that he fully agreed with the interpretation of the representative of the United States to the effect that operative paragraph 1 of

^{245/} 941st meeting: paras. 98-102.

^{246/} 941st meeting: para. 12c.

^{247/} 941st meeting: paras. 16c-168.

^{248/} 941st meeting: para. 18c.

part A should be interpreted to mean that the Secretary-General should implement the resolution.^{249/}

The representative of Chile stated that the joint draft resolution S/4722, with its deliberate avoidance of any reference to the Secretary-General, was not a satisfactory one. The previous resolutions of the Council and the General Assembly should be expressly reaffirmed, for this remedied many defects in the draft resolution. The appeal to States in part A, operative paragraph 3, seemed to be limited in scope by making no reference to war matériel. However, the Liberian representative's explanation had to some extent made up for these weaknesses, which a proper interpretation of the existing agreements, reaffirmed and recalled by the draft resolution, would offset. The representative expressed doubts about part B of the draft resolution. Operative paragraphs 1 and 2 would represent interference contrary to the Charter; however, the aim, as stated in the preamble to part B, to prevent interference from outside and the appeal for conciliation, made up for that shortcoming. The convening of the Parliament, as well as the reorganization of the army, were not made mandatory. It would be necessary to negotiate and conciliate for that purpose. The representative concurred in the explanations and interpretations given by the representatives of the United States, Turkey and the United Kingdom.^{250/}

The representative of France stated that his delegation endorsed what had been said by the representatives of the United States and the United Kingdom on the subject of the respect for the sovereignty of the Congo. It was desirable that the United Nations should help the lawful authorities of the Congo to reorganize the armed forces and to restore order within the country, but nothing could be done without their co-operation. It was also for those authorities to convene Parliament and to take the necessary steps towards conciliation.^{251/}

The representative of China shared the interpretations of the representatives of Turkey, the United States and the United Kingdom on the joint draft resolution S/4722, particularly on operative paragraph 1 of part A. In regard to operative paragraph 3, the Chinese delegation attached a great deal of importance to the prevention of the furnishing not only of military personnel but also of military matériel. With regard to operative paragraph 1 of part B, it was his understanding that it meant that the Secretary-General should urge the Government of the Congo to convene the Parliament because that was the only procedure possible. With regard to operative paragraph 2 of part B, the representative expressed the view that the Secretary-General should urge the Government of the Congo to have its armed forces reorganized. This was the only procedure consistent with the Charter and with the previous resolutions of the Council.^{252/}

The representative of Ecuador stated that he would vote for the joint draft resolution S/4722 on the

^{249/} 942nd meeting: paras. 17-19, 23.

^{250/} 942nd meeting: paras. 34-39.

^{251/} 942nd meeting: para. 44.

^{252/} 942nd meeting: paras. 53-55.

understanding that it was to be interpreted in the manner explained by the representative of Liberia and in conformity with the views expressed by the representatives of the United Kingdom, the United States and Turkey.^{253/}

At the 942nd meeting on 20/21 February 1961, the draft resolution submitted by the USSR was rejected by 1 vote in favour to 8 against, with 2 abstentions.^{254/}

Before the vote on the joint draft resolution S/4722, the representative of the United States stated that he understood the statement of the representative of Liberia to mean that, taken as a whole, the draft resolution was intended to forbid the introduction into the Congo of military arms and supplies, as well as military personnel from any source, and to authorize the United Nations to interdict such traffic. The representative assumed that, in the absence of any statement to the contrary, the two other sponsors were in accord with the representative of Liberia in so construing the draft resolution. It was on this basis that the United States was ready to vote for it.^{255/}

At the 942nd meeting on 21 February 1961 the joint draft resolution submitted by Ceylon, Liberia and the United Arab Republic was adopted ^{256/} by 9 votes in favour to none against, with 2 abstentions. The resolution^{257/} read:

"A

"The Security Council,

"Having considered the situation in the Congo,

"Having learnt with deep regret the announcement of the killing of the Congolese leaders, Mr. Patrice Lumumba, Mr. Maurice Mpolo and Mr. Joseph Okito,

"Deeply concerned at the grave repercussions of these crimes and the danger of widespread civil war and bloodshed in the Congo and the threat to international peace and security,

"Noting the report of the Secretary-General's Special Representative (S/4691) dated 12 February 1961 bringing to light the development of a serious civil war situation and preparations therefor,

"1. Urges that the United Nations take immediately all appropriate measures to prevent the occurrence of civil war in the Congo, including arrangements for cease-fires, the halting of all military operations, the prevention of clashes, and the use of force, if necessary, in the last resort;

"2. Urges that measures be taken for the immediate withdrawal and evacuation from the Congo of all Belgian and other foreign military and paramilitary personnel and political advisers not under the United Nations Command, and mercenaries;

^{253/} 942nd meeting: para. 57.

^{254/} 942nd meeting: para. 89.

^{255/} 942nd meeting: paras. 91-94.

^{256/} 942nd meeting: para. 95.

^{257/} S/4741, O.R., 16th year, Suppl. for Jan.-March 1961, pp. 147-148.

"3. Calls upon all States to take immediate and energetic measures to prevent the departure of such personnel for the Congo from their territories, and for the denial of transit and other facilities to them;

"4. Decides that an immediate and impartial investigation be held in order to ascertain the circumstances of the death of Mr. Lumumba and his colleagues and that the perpetrators of these crimes be punished;

"5. Reaffirms the Security Council resolutions of 14 July, 22 July and 9 August 1960 and the General Assembly resolution 1474 (ES-IV) of 20 September 1960 and reminds all States of their obligation under these resolutions.

"B

"The Security Council,

"Gravely concerned at the continuing deterioration in the Congo, and the prevalence of conditions which seriously imperil peace and order, and the unity and territorial integrity of the Congo, and threaten international peace and security,

"Noting with deep regret and concern the systematic violations of human rights and fundamental freedoms and the general absence of rule of law in the Congo,

"Recognizing the imperative necessity of the restoration of parliamentary institutions in the Congo in accordance with the fundamental law of the country, so that the will of the people should be reflected through the freely elected Parliament,

"Convinced that the solution of the problem of the Congo lies in the hands of the Congolese people themselves without any interference from outside and that there can be no solution without conciliation,

"Convinced further that the imposition of any solution, including the formation of any government not based on genuine conciliation would, far from settling any issues, greatly enhance the dangers of conflict within the Congo and threat to international peace and security,

"1. Urges the convening of the Parliament and the taking of necessary protective measures in that connexion;

"2. Urges that Congolese armed units and personnel should be re-organized and brought under discipline and control, and arrangements be made on impartial and equitable bases to that end and with a view to the elimination of any possibility of interference by such units and personnel in the political life of the Congo;

"3. Calls upon all States to extend their full co-operation and assistance and take such measures as may be necessary on their part, for the implementation of this resolution."

At the same meeting, the representative of the United States submitted the following amendments to the joint draft resolution S/4733/Rev.1: (1) in the first preambular paragraph to add after the words "20 February" the words "and of other reports"; and

after the words "assassinations in" to add the word "Stanleyville"; (2) to delete the last preambular paragraph; (3) in operative paragraph 3, to add after the word "measures" the words "in accordance with the Charter"; (4) in operative paragraph 4 to add after the word "and" the words "to seek the".

He stated that the purpose of his amendments was, first, to make it clear that the Council was concerned with atrocities, assassinations and violations of human rights wherever they occurred in the Congo, secondly, that no prejudgement of responsibility for those occurrences be made before the investigation, thirdly, to seek the punishment of the perpetrators thereof, and fourthly, to make it clear that any action by the United Nations in the Congo, specifically the use of force, was circumscribed by the provisions of the Charter.^{258/}

After a suspension of the meeting the representative of Ceylon stated that the sponsors of the joint draft resolution were prepared to substitute in the last preambular paragraph "Taking note of the allegations of the responsibility of persons in high places for such crimes", and were ready to accept the United States amendments to operative paragraphs 3 and 4. However, they were not in a position to accept the amendment to the first preambular paragraph.^{259/}

The representative of the United States declared that he was ready to substitute in the first preambular paragraph after "20 February" the words "and other reports bringing to the urgent attention of the Council the atrocities and assassinations in various parts of the Congo".^{260/}

The President (United Kingdom) put to the vote the retention of the words "including, if necessary, the use of force in the last resort" in operative paragraph 3, as the representative of China had asked for a separate vote on these words.^{261/}

The proposal was not adopted. There were 5 votes in favour, 1 against, with 5 abstentions.^{262/}

The President put to the vote the amendments to preambular paragraph 1, to add after the words "20 February" the words "and of other reports" and to delete the words "in Leopoldville, Katanga and South Kasai in the Congo", and to replace them with the words "in various parts of the Congo".^{263/}

The amendments failed of adoption. There were 8 votes in favour and 3 against (one of the negative votes being that of a permanent member).^{264/}

Following a discussion in which the representatives of Liberia, the United States, Ceylon, the United Arab Republic, Turkey and the USSR took part, the meeting was suspended. Upon resumption of the meeting, after a clarification by the representative of the United States that the first preambular paragraph of

^{258/} S/4740, 942nd meeting: paras. 97-101.

^{259/} 942nd meeting: paras. 112, 113.

^{260/} 942nd meeting: para. 125.

^{261/} 942nd meeting: para. 129.

^{262/} 942nd meeting: para. 129.

^{263/} 942nd meeting: para. 135.

^{264/} 942nd meeting: para. 139.

the joint draft resolution S/4733/Rev.1, as amended by the proposed United States amendment, would read:

"Taking note of the report of the Special Representative in the Congo [S/4727] of 18 February 1961 and the Secretary-General's communication to the Security Council in his statement of 20 February and other reports" ^{265/}

the President put the amendment to the vote.

The amendment failed of adoption. There were 7 votes in favour, 3 against, with 1 abstention (one of the negative votes being that of a permanent member).^{266/}

At the 942nd meeting on 20/21 February 1961, the joint draft resolution S/4733/Rev.1, as amended, was not adopted. There were 6 votes in favour, none against, with 5 abstentions.^{267/}

The President, speaking as the representative of the United Kingdom, said that had either of the amendments to the first preambular paragraph been carried, his delegation would have voted for the draft resolution.^{268/}

The Secretary-General welcomed resolution S/4741 as giving a stronger and a clearer framework for United Nations action although it did not provide a wider legal basis or new means for implementation. He noted the reaffirmation of previous resolutions which had entrusted the Secretary-General with execution of the decisions of the Security Council in the Congo affairs. On that basis he would urgently avail himself of the assistance of the Advisory Committee. The Secretary-General noted further that there had been no difference of opinion as regards the operative paragraphs of draft resolution S/4733/Rev.1. Under such circumstances he felt entitled to use those operative paragraphs with the full moral value which they had in the United Nations efforts in the Congo. Concerning the provision regarding the impartial investigation to determine responsibility, it would have to be done on the initiative of the Secretariat.^{269/}

The representative of Liberia asked the President of the Security Council to consider convening a special meeting of the Council to discuss his delegation's suggestion regarding the Council's visit to the Congo.^{270/}

The President said that he would enter into consultations with other members of the Council with a view to calling a meeting if that was the general desire.^{271/}

^{265/} 942nd meeting: para. 169.

^{266/} 942nd meeting: para. 175.

^{267/} 942nd meeting: para. 181.

^{268/} 942nd meeting: para. 215.

^{269/} 942nd meeting: paras. 216, 217, 219-221. For the statement of the Secretary-General in connexion with the question of the limitation of the powers of the United Nations Force in the Congo with regard to the use of force (paras. 225, 226, 228-231), see chapter XI, Case 4.

^{270/} 942nd meeting: para. 246.

^{271/} 942nd meeting: para. 247.

By telegram^{272/} dated 22 February 1961, the President of the Congo (Leopoldville) communicated to the President of the Security Council the position of the Government of the Congo on the Security Council resolution S/4741 of 21 February 1961.

On 27 February 1961 the Secretary-General submitted his first report^{273/} and on 17 May 1961 his second report^{274/} on steps taken in regard to the implementation of the Security Council resolution S/4741 of 21 February 1961.

On 20 March 1961 the Secretary-General submitted his report^{275/} on the implementation of part A, operative paragraph 4, of Security Council resolution S/4741 of 21 February 1961.

On 20 June 1961 he submitted his report^{276/} on steps taken in regard to the implementation of part B, paragraph 1, of Security Council resolution S/4741 of 21 February 1961.

On 2 August 1961 the Secretary-General submitted his report^{277/} concerning the meeting of the Parliament of the Congo and the establishment, on 2 August 1961, of a new Government of the Republic.

On 13 August 1961 an exchange of letters^{278/} between the Prime Minister of the Republic of the Congo and the Secretary-General concerning the meeting of the Congolese Parliament and the establishment of a Government of national unity and political reconciliation under Prime Minister Adoula was published.

On 14 September 1961 a report^{279/} of the Officer-in-Charge of the United Nations Operation in the Congo to the Secretary-General, relating to the implementation of part A, operative paragraph 2, of Security Council resolution S/4741 of 21 February 1961, was published.

Decision of 24 November 1961 (982nd meeting):

(i) *Strongly deprecating the secessionist activities in Katanga;*

^{272/} S/4743, O.R., 16th year, Suppl. for Jan.-March 1961, pp. 150-152. By letter dated 21 February 1961 addressed to the President of the Security Council the representative of the Congo (Leopoldville) brought to the attention of the Security Council the views of his Government on certain aspects of the question, and the interpretation it intended to give to the decision adopted, on the basis of the commentaries put forward by the members of the Council (S. 4742, *ibid.*, pp. 145-150).

^{273/} S/4752, O.R., 16th year, Suppl. for Jan.-March 1961, pp. 176-190, supplemented by S/4752/Add.1-4, *ibid.*, pp. 190-203.

^{274/} S/4807, O.R., 16th year, Suppl. for April-June 1961, pp. 43-48, supplemented by S/4807/Add.1, *ibid.*, p. 48.

^{275/} S/4771, O.R., 16th year, Suppl. for Jan.-March 1961, pp. 259-260, supplemented by S/4771/Add.1-3, *ibid.*, pp. 260-261.

^{276/} S/4841, O.R., 16th year, Suppl. for April-June 1961, pp. 69-72, supplemented by S/4841/Add.1-3, *ibid.*, pp. 73-76.

^{277/} S/4913, O.R., 16th year, Suppl. for July-Sept. 1961, pp. 61-63.

^{278/} S/4923, *ibid.*, pp. 74-86.

^{279/} S/4940, O.R., 16th year, Suppl. for July-Sept. 1961, pp. 99-106. The report covered the developments in Katanga from 24 August to the afternoon of 13 September and was supplemented by documents S/4940/Add.1-9, covering the developments from 13 September to 23 September 1961, *ibid.*, pp. 106-121. Document S/4940/Add.7 contains the text of a provisional draft agreement on a cease-fire between the United Nations troops and those of the Katanga authorities, signed on 20 September 1961, *ibid.*, pp. 119-120. Subsequent developments up to 19 December 1961 were covered in S/4940/Add.10-19, O.R., 16th year, Suppl. for Oct.-Dec. 1961, pp. 1-57.

- (ii) Further deprecating the armed action against the United Nations forces and personnel in pursuit of such activities;
- (iii) Insisting that such activities should cease forthwith;
- (iv) Authorizing the Secretary-General to take vigorous action, including the use of requisite measure of force, if necessary, for the immediate apprehension, detention pending legal action, and/or deportation of all foreign military and paramilitary personnel and political advisers not under United Nations Command, and mercenaries as laid down in paragraph A-2 of the resolution of 21 February 1961;
- (v) Further requesting the Secretary-General to take all necessary measures to prevent the entry or return of such elements and of equipment or other material in support of such activities;
- (vi) Requesting all States to refrain from the supply of arms, equipment or other material which could be used for warlike purposes, and to take the necessary measures to prevent their nationals from doing the same, and to deny transportation for such supplies except in accordance with the decisions, policies and purposes of the United Nations;
- (vii) Calling upon all Member States to refrain from promoting, condoning, or giving support to activities against the United Nations often resulting in armed hostilities against the United Nations forces and personnel;
- (viii) Declaring that all secessionist activities against the Congo are contrary to the *Loi fondamentale* and Security Council decisions and specifically demanding that such activities taking place in Katanga should cease forthwith;
- (ix) Declaring full support for the Central Government of the Republic of the Congo;
- (x) Urging all Members to lend their support to the Central Government of the Republic of the Congo;
- (xi) Requesting all Member States to refrain from any action which might impede the policies and purposes of the United Nations in the Congo and which was contrary to the decisions of the Security Council and the general purposes of the Charter

By letter ^{280/} dated 3 November 1961, the permanent representatives of Ethiopia, Nigeria and Sudan requested the President of the Security Council to convene a meeting of the Council to consider the situation prevailing in the province of Katanga, Republic of the Congo, which was considered to have been caused by the lawless acts of mercenaries.

At the 973rd meeting on 13 November 1961,^{281/} the Security Council adopted the following agenda:

"Letter dated 13 July 1960 from the Secretary-General to the President of the Security Council (S/4381):

"Letter dated 3 November 1961 from the Permanent Representatives of Ethiopia, Nigeria and

Sudan to the President of the Security Council (S/4973)."

The following representatives were invited to participate in the discussion, the invitations being renewed at each of the subsequent meetings: at the 973rd meeting, the representatives of Ethiopia, Belgium, India and the Republic of the Congo; at the 974th meeting, the representative of Sweden.^{282/}

At the 974th meeting on 15 November 1961, the representative of Liberia noted that the resolution of the Security Council of 21 February 1961 had not yet been fully implemented and that paragraphs 2 and 3 of part A of that resolution had not yet met with the desired results.^{283/} He introduced a draft resolution^{284/} submitted jointly with Ceylon and the United Arab Republic according to which the Security Council would: (1) strongly deprecate the secessionist activities of the provincial administration of Katanga; (2) further deprecate the armed action against the United Nations forces and personnel in the pursuit of such activities; (3) insist that such activities should cease forthwith; (4) authorize the Secretary-General to take vigorous action, including the use of requisite measure of force, if necessary, for the immediate apprehension, detention pending legal action and/or deportation of all foreign mercenaries and hostile elements as laid down in paragraph 2 of part A of resolution S/4741 of 21 February 1961; (5) further request the Secretary-General to take all necessary measures to prevent the entry or return of such elements and also of arms, equipment or other material in support of such activities; (6) request all States to refrain from the supply of arms, equipment or other material which could be used for warlike purposes, and to take the necessary measures to prevent their nationals from doing the same, and also to deny transportation and transit facilities for such supplies across their territories except in accordance with the decisions of the United Nations; (7) call upon all Member States to refrain from promoting, condoning or giving support to activities against the United Nations; (8) demand that all secessionist activities in Katanga should cease forthwith in conformity with the *Loi fondamentale* and the decisions of the Security Council; (9) declare full support for the Central Government of the Congo and the determination to assist that Government in accordance with the decisions of the United Nations to maintain law and order and national integrity, and to provide technical assistance; (10) urge all States to lend their support to the Central Government of the Republic of the Congo; (11) request all Member States to refrain from any action which might impede the policies and purposes of the United Nations in the Congo.

The representative of Belgium* observed that the United Nations could not use force except when it had exhausted all possibilities of conciliation to the utmost and requested the Council to consider

^{282/} 973rd meeting; para. 25; 974th meeting; para. 2.

^{283/} 974th meeting; para. 10.

^{284/} S/4985. (The sponsors subsequently revised operative paragraph 8 of the joint draft resolution which was issued as S/4985/Rev.1, O.R., 16th year, Suppl. for Oct.-Dec. 1961, pp. 132-134.) 974th meeting; para. 7.

^{280/} S/4973, O.R., 16th year, Suppl. for Oct.-Dec. 1961, p. 66.

^{281/} 973rd meeting; para. 16.

whether a provision about conciliation should not be added to the draft resolution.^{285/}

At the 975th meeting on 16 November 1961, the representative of the United States, referring to actions and declarations of the authorities in Oriental Province, stated that he had no doubt that the sponsors of the joint draft resolution would agree that further consultations were essential if the Council was to take effective action on all important aspects of the Congo question.^{286/}

At the 976th meeting on 17 November 1961, the representative of Turkey pointed out that, since the joint draft resolution had been submitted on 14 November, naturally any developments which had occurred after that date could not have been taken into account by the co-sponsors. He further stated that the general consensus of opinion of the Council would be in favour of adopting a text which would also reflect, as appropriate, any subsequent questions which might be relevant to the debate on the Congo.^{287/}

The representative of the United Kingdom expressed the view that the joint draft resolution should be broadened to take into account all secessionist activities in the Congo.^{288/}

At the 977th meeting on 20 November 1961, the representative of Chile observed that operative paragraph 10 of the joint draft resolution was superfluous and might open the door to types of unilateral actions which would be incompatible with the decisions of the General Assembly and the Security Council, in which it had been envisaged that no military assistance should be provided except through the channels of the United Nations.^{289/}

The representative of Liberia pointed out that the only official information about secession concerned Katanga and that all the resolutions of the Security Council and of the General Assembly had called for the territorial integrity and national unity of the Republic of the Congo. Thus, by implication, the United Nations was opposed to secessionist activities in any part of the Congo. The sponsors of the joint draft resolution, however, had revised the text of operative paragraph 8, whereby the Council would declare that all secessionist activities against the Republic of the Congo were contrary to the Loi fondamentale and the Security Council decisions and would specifically demand that such activities as were currently taking place in Katanga should cease forthwith.^{290/}

At the 978th meeting on 21 November 1961, the representative of the United States submitted the following amendments^{291/} to the joint draft resolution

^{285/} 974th meeting: para. 151.

^{286/} 975th meeting: para. 54.

^{287/} 976th meeting: para. 129.

^{288/} 976th meeting: para. 175.

^{289/} 977th meeting: para. 15.

^{290/} 977th meeting: paras. 42-44.

^{291/} S/4989, O.R., 16th year, Suppl. for Oct.-Dec. 1961, pp. 136-137.

of Ceylon, Liberia and the United Arab Republic: (1) to revise the fifth preambular paragraph^{292/} to read: "Deploring all armed action and secessionist activities in opposition to the authority of the Government of the Republic of the Congo, including specifically those carried on with the aid of external resources and foreign mercenaries, and completely rejecting the claim that Katanga is a 'sovereign independent nation'; (2) to add two new preambular paragraphs: "Noting with deep regret the recent and past actions of violence against United Nations personnel" and "Recognizing the Government of the Republic of the Congo as exclusively responsible for the conduct of external affairs of the Congo"; (3) to revise operative paragraph 2 to read: "Further deprecates all armed action against the United Nations forces and personnel and against the Government of the Republic of the Congo"; (4) to revise operative paragraph 4 to read: "Authorizes the Secretary-General to take vigorous action, including the use of requisite measure of force, if necessary, for the immediate apprehension, detention pending legal action and/or deportation of all foreign military and paramilitary personnel and political advisers not under the United Nations Command, and mercenaries as laid down in part A, paragraph 2, of the Security Council resolution of 21 February 1961"; (5) to add the following new paragraph 6, renumbering subsequent paragraphs accordingly: "Authorizes the Secretary-General, in consultation with the Government of the Republic of the Congo, to neutralize, where necessary to prevent their use for military purposes against the United Nations, the Republic of the Congo, or the civilian population, aircraft and other weapons of war which have entered the Congo contrary to its laws and United Nations resolutions"; (6) to add the following new paragraph 11 (after original paragraph 9): "Requests the Secretary-General to assist the Government of the Republic of the Congo to reorganize and retrain Congolese armed units and personnel and to assist the Government to develop its armed forces for the tasks which confront it"; and (7) to add the following new penultimate paragraph: "Further requests the Secretary-General to take all such steps in accordance with the resolutions of the Security Council as he considers necessary, including those of negotiation and conciliation, to achieve the immediate political unity and territorial integrity of the Congo."

The President, speaking as the representative of the USSR, submitted the following amendment^{293/} to the United States amendments: to make the following changes in the text of the new paragraph 6 proposed in the fifth United States amendment: (a) substitute the word "remove" for the word "neutralize"; (b) substitute the words "which have entered Katanga contrary to the laws of the Congo" for the words "which have entered the Congo contrary to its laws"; and (c) delete the words "where necessary."

^{292/} This paragraph read: "Bearing in mind the imperative necessity of speedy and effective action to implement fully the policies and purposes of the United Nations in the Congo to end the unfortunate plight of the Congolese people, necessary both in the interests of world peace and international co-operation, and stability and progress of Africa as a whole".

^{293/} S/4991, O.R., 16th year, Suppl. for Oct.-Dec. 1961, pp. 138-139; 975th meeting: paras. 36, 37.

On 21 November 1961, the United States submitted a revised text of its amendments^{294/} to the joint draft resolution, in which the following changes were made: (a) the preambular paragraph 5 to read: "Deploring all armed action and secessionist activities in opposition to the authority of the Government of the Republic of the Congo, including specifically those carried on by the provincial administration of Katanga with the aid of external resources and foreign mercenaries, and completely rejecting the claim that Katanga is a 'sovereign independent nation'; (b) the new operative paragraph 6 in the fifth amendment to read: "Authorizes the Secretary-General, in consultation with the Government of the Republic of the Congo, to remove or to prevent the use for military purposes against the United Nations, the Republic of the Congo, or the civilian population, of aircraft and other weapons of war which have entered Katanga or any other region of the Congo contrary to the laws of the Congo and United Nations resolutions"; and (c) the new operative paragraph 11 in the sixth amendment to read: "Requests the Secretary-General to assist the Government of the Republic of the Congo to re-organize and retain Congolese armed units and personnel to assist the Government to develop its armed forces for the tasks which confront it."

At the 979th meeting on 21 November 1961 the representative of the United Kingdom expressed "very strong" reservations on the United States amendments in paragraphs 4 and 5 of document S/4989/Rev.1.^{295/} The United Kingdom delegation could not associate itself with any wording which could be interpreted as encouraging the local command to use an added measure of force which might endanger the uneasy peace in Katanga and lead to a further series of reprisals and counter-reprisals. The representative expressed the hope that the Secretary-General would interpret this particular part of his mandate with the basic principle in mind that the proper task for the United Nations was conciliation and pacification. Concerning the amendment in paragraph 5, which introduced a new operative paragraph 6, the representative pointed out that the United Nations had entered into a cease-fire agreement with the Katanga authorities and the implementation of this new paragraph must not prejudice the terms of that agreement.^{296/}

The President, speaking as the representative of the USSR, stated that in view of the United States amendments (S/4989/Rev.1) the USSR amendment (S/4991) would be altered by deleting from the text of the new operative paragraph 6 only the words "or any other region of the Congo".^{297/}

At the 982nd meeting on 24 November 1961, the United States introduced a new revised text of its amendments^{298/} in which the preambular paragraph 5 would read:

^{294/} S/4989/Rev.1, see foot-note 31 to S/4989/Rev.2, O.R., 16th year, Suppl. for Oct.-Dec., 1961, pp. 137-138.

^{295/} These were the amendments to operative paragraph 4 and the new operative paragraph 6.

^{296/} 979th meeting: paras. 19-21.

^{297/} 979th meeting: para. 54.

^{298/} S/4989/Rev.2, O.R., 16th year, Suppl. for Oct.-Dec. 1961, pp. 137-138.

"Deploring all armed action in opposition to the authority of the Government of the Republic of the Congo, specifically secessionist activities and armed action now being carried on by the provincial administration of Katanga with the aid of external resources and foreign mercenaries, and completely rejecting the claim that Katanga is a 'sovereign independent nation'."

The representative of the United States revised, in paragraph 5 of the United States amendments (S/4989/Rev.2) the words "have entered" to read "have entered or may enter". He further deleted paragraph 7 of the amendments.^{299/}

The President put to the vote the USSR sub-amendment to paragraph 5 of the United States amendments to delete the words "or any other region of the Congo". The USSR amendment was rejected by 2 votes in favour to 6 against, with 3 abstentions.^{300/}

The first United States amendment to the joint draft resolution submitted by Ceylon, Liberia and the United Arab Republic was adopted^{301/} by 9 votes in favour to none against, with 2 abstentions.

The two paragraphs of the second United States amendment were each adopted^{302/} by 10 votes in favour to none against, with 1 abstention.

The third United States amendment failed of adoption.^{303/} The result of the vote was 9 in favour, 1 against, with 1 abstention (the negative vote being that of a permanent member).

The fourth United States amendment was adopted^{304/} by 8 votes in favour to none against, with 3 abstentions.

The fifth United States amendment was not adopted.^{305/} There were 6 votes in favour, 1 against, with 3 abstentions, one member having not participated in the voting.

The sixth United States amendment failed of adoption.^{306/} There were 9 votes in favour, 1 against, with 1 abstention (the negative vote being that of a permanent member).

At the proposal of the United States representative, the meeting was suspended.^{307/}

After the resumption of the meeting, the joint draft resolution of Ceylon, Liberia and the United Arab Republic, as amended, was put to the vote.

At the 982nd meeting on 24 November 1961, the joint draft resolution, as amended, was adopted^{308/} by 9 votes in favour to none against, with 2 abstentions.

^{299/} 982nd meeting: paras. 25, 5c.

^{300/} 982nd meeting: para. 77.

^{301/} 982nd meeting: para. 75.

^{302/} 982nd meeting: paras. 79, 5c.

^{303/} 982nd meeting: para. 81.

^{304/} 982nd meeting: para. 82.

^{305/} 982nd meeting: para. 83.

^{306/} 982nd meeting: para. 84.

^{307/} 982nd meeting: para. 94.

^{308/} 982nd meeting: para. 99.

The resolution^{309/} read:

"The Security Council,

"Recalling its resolutions S/4387, S/4405, S/4426 and S/4741,

"Recalling further General Assembly resolutions 1474 (ES-IV), 1592 (XV), 1599 (XV), 1600 (XV) and 1601 (XV),

"Reaffirming the policies and purposes of the United Nations with respect to the Congo (Leopoldville) as set out in the aforesaid resolutions, namely:

"(a) To maintain the territorial integrity and the political independence of the Republic of the Congo,

"(b) To assist the Central Government of the Congo in the restoration and maintenance of law and order,

"(c) To prevent the occurrence of civil war in the Congo,

"(d) To secure the immediate withdrawal and evacuation from the Congo of all foreign military, paramilitary and advisory personnel not under the United Nations Command, and all mercenaries, and

"(e) To render technical assistance,

"Welcoming the restoration of the national Parliament of the Congo in accordance with the 'Loi fondamentale' and the consequent formation of a Central Government on 2 August 1961,

"Deploring all armed action in opposition to the authority of the Government of the Republic of the Congo, specifically secessionist activities and armed action now being carried on by the provincial administration of Katanga with the aid of external resources and foreign mercenaries, and completely rejecting the claim that Katanga is a 'sovereign independent nation',

"Noting with deep regret the recent and past actions of violence against United Nations personnel,

"Recognizing the Government of the Republic of the Congo as exclusively responsible for the conduct of the external affairs of the Congo,

"Bearing in mind the imperative necessity of speedy and effective action to implement fully the policies and purposes of the United Nations in the Congo to end the unfortunate plight of the Congolese people, necessary both in the interests of world peace and international co-operation, and stability and progress of Africa as a whole,

"1. Strongly deprecates the secessionist activities illegally carried out by the provincial administration of Katanga, with the aid of external resources and manned by foreign mercenaries;

"2. Further deprecates the armed action against United Nations forces and personnel in the pursuit of such activities;

"3. Insists that such activities shall cease forthwith, and calls upon all concerned to desist therefrom;

"4. Authorizes the Secretary-General to take vigorous action, including the use of a requisite measure of force, if necessary, for the immediate apprehension, detention pending legal action and/or deportation of all foreign military and paramilitary personnel and political advisers not under the United Nations Command, and mercenaries as laid down in part A, operative paragraph 2 of the Security Council resolution of 21 February 1961;

"5. Further requests the Secretary-General to take all necessary measures to prevent the entry or return of such elements under whatever guise and also of arms, equipment or other material in support of such activities;

"6. Requests all States to refrain from the supply of arms, equipment of other material which could be used for warlike purposes, and to take the necessary measures to prevent their nationals from doing the same, and also to deny transportation and transit facilities for such supplies across their territories, except in accordance with the decisions, policies and purposes of the United Nations;

"7. Calls upon all Member States to refrain from promoting, condoning, or giving support by acts of omission or commission, directly or indirectly, to activities against the United Nations often resulting in armed hostilities against the United Nations forces and personnel;

"8. Declares that all secessionist activities against the Republic of the Congo are contrary to the 'Loi fondamentale' and Security Council decisions and specifically demands that such activities which are now taking place in Katanga shall cease forthwith;

"9. Declares full and firm support for the Central Government of the Congo, and the determination to assist that Government, in accordance with the decisions of the United Nations, to maintain law and order and national integrity, to provide technical assistance and to implement those decisions;

"10. Urges all Member States to lend their support, according to their national procedures, to the Central Government of the Republic of the Congo, in conformity with the Charter and the decisions of the United Nations;

"11. Requests all Member States to refrain from any action which may, directly or indirectly, impede the policies and purposes of the United Nations in the Congo and is contrary to its decisions and the general purpose of the Charter."

The Acting Secretary-General stated that he intended to discharge the responsibilities entrusted to him particularly in paragraphs 4 and 5 of the resolution with determination and vigour and to employ to that end as much as possible of the total resources available to the United Nations Operations in the Congo.^{310/}

^{310/} 982nd meeting: para. 102. For the statement of the Acting Secretary-General, see chapter I, Cases 13 and 41; in connexion with the limitations of the powers of the United Nations Force with regard to the use of force, see chapter V, Case 2 (vii).

^{309/} S/5002, O.R., 16th year, Suppl. for Oct.-Dec. 1961, pp. 148-150.

On 4 February 1963 the Secretary-General submitted to the Security Council his report ^{311/} on the implementation of Security Council resolutions S/4387 of 14 July 1960, S/4741 of 21 February 1961 and S/5002 of 24 November 1961.^{312/}

On 17 September 1963 the Secretary-General submitted to the Security Council his report on the question of military disengagement in the Congo.^{313/}

On 29 June 1964 the Secretary-General submitted to the Security Council his report on the withdrawal of the United Nations Force in the Congo and on other aspects of the United Nations Operations there.^{314/}

COMPLAINT BY CUBA (LETTER OF 11 JULY 1960) INITIAL PROCEEDINGS

By letter ^{315/} dated 11 July 1960 addressed to the President of the Security Council, the Minister for Foreign Affairs of Cuba stated that a grave situation existed with manifest danger to international peace and security, as a consequence of the repeated threats, reprisals and aggressive acts carried out against Cuba by the Government of the United States. The situation had taken concrete shape from the moment the Revolutionary Government, exercising its sovereignty, had adopted measures designed to safeguard the national resources and to raise the standard of living, health and education of the Cuban people. In spite of the Cuban Government's repeated expressions of willingness to live in peace and harmony with the United States and to broaden, on a basis of equality, mutual respect and reciprocal benefit, diplomatic and economic relations with the Government and people of the United States, such proposals had been of no avail. Instead, the United States had offered protection to known Cuban war criminals, and provided facilities to counter-revolutionaries to plot conspiracies and to prepare invasion plans. Cuban airspace had been frequently violated with considerable material damage and loss of life by aircraft proceeding from United States territory and piloted, in some instances, by United States pilots. Also, threats of economic strangulation had been levelled against Cuba through such acts as the refusal of oil companies to refine crude oil owned by the Cuban State in violation of the Mineral Fuel Oil Act of 1938, and the extraordinary decision of the President of the United States to reduce the sugar quota. Such actions, concluded the letter, constituted intervention in Cuba's domestic affairs and economic aggression contrary to the terms of relevant treaties

^{311/} S/5240 and Add.1, O.R., 18th year, Suppl. for Jan.-March 1963, pp. 92-106, supplemented by S/5240/Add.2, O.R., 18th year, Suppl. for April-June 1963, pp. 1-13.

^{312/} For the report of the Officer-in-Charge of the United Nations Operation in the Congo to the Secretary-General relating to the implementation of the Security Council resolutions S/4741 of 21 February 1961 and S/5002 of 24 November 1961, see: S/5033 and Add.1-9, O.R., 17th year, Suppl. for Jan.-March 1962, pp. 2-44; S/5053/Add.10, O.R., 17th year, Suppl. for April-June 1962, pp. 1-93; S/5053/Add.11, O.R., 17th year, Suppl. for July-Sept. 1962, pp. 1-40; S/5053/Add.12, Add.12/Add.1 and 2, Add.13 and Add.13/Add.1, O.R., 17th year, Suppl. for Oct.-Dec. 1962, pp. 1-142; S/5053/Add.14-15, O.R., 18th year, Suppl. for Jan.-March 1963, pp. 1-85.

^{313/} S/5428, O.R., 18th year, Suppl. for July-Sept. 1963, pp. 160-178.

^{314/} S/5784.

^{315/} S/4378, O.R., 15th year, Suppl. for July-Sept. 1960, pp. 9-10.

and to the fundamental principles of the United Nations Charter.

The request for a meeting of the Security Council was based on Articles 52 (4), 103, 24, 34, 35 (1) and 36 of the Charter and rule 3 of the provisional rules of procedure of the Security Council.

At the 874th meeting on 18 July 1960, the Council decided^{316/} to include the question in its agenda. It was considered by the Council at its 874th to 876th meetings held between 18 and 19 July 1960. The President (Ecuador) invited, without objection, the representative of Cuba to participate in the discussion.^{317/}

Decision of 19 July 1960 (876th meeting):

- (i) *Deciding to adjourn consideration of the question pending the receipt of a report from the Organization of American States;*
- (ii) *Inviting members of that Organization to lend their assistance toward the achievement of a peaceful solution of the situation;*
- (iii) *Urging all other States to refrain from any action which might increase tensions between Cuba and the United States*

At the 874th meeting on 18 July 1960, the President called attention to a letter^{318/} dated 15 July 1960 from the representative of the United States to the President of the Council, transmitting a memorandum on "Provocative Actions of the Government of Cuba Against the United States Which Have Served to Increase Tensions in the Caribbean Area", which had been previously submitted to the Inter-American Peace Committee of the Organization of American States. The memorandum noted that, for the past several months, the Government of Cuba had conducted an intensive campaign of distortions, half-truths and outright falsehoods against the United States and that, in spite of patience and forbearance on the part of the latter, Cuba continued to intensify its hostility towards that country, thus increasing tensions in the area. With regard to Cuban charges, which were said to lack substantiation either by evidence or facts, the memorandum cited among other "provocative" actions the La Coubre incident, regarding which the Government of Cuba, after charging that the explosion on board the vessel La Coubre was the responsibility of the United States, admitted that it had no conclusive evidence. Attached to the memorandum were several documents to substantiate the United States contention that the Cuban Government's systematic and provocative campaign of slander and hostile propaganda against the United States was a major contribution to increased tensions in the Caribbean and the hemisphere as a whole.

In his initial statement before the Council at the 874th meeting on 18 July 1960, the representative of Cuba upheld his Government's right of appeal to the Council, in spite of the existence of the Organization of American States, and advanced further charges that the United States was planning increased aggression and, ultimately, invasion.^{319/}

^{316/} 874th meeting: preceding para. 1.

^{317/} 874th meeting: para. 2.

^{318/} S/4388; 874th meeting: para. 3.

^{319/} 874th meeting: paras. 6-94.

In reply, the representative of the United States denied the Cutan allegations and assured the Council that his Government harboured no aggressive intentions against Cuba. It was Cuba, he asserted, that was the source of tensions in the Caribbean area.^{320/}

At the same meeting the representatives of Argentina and Ecuador submitted a draft resolution.^{321/} In introducing the joint draft resolution, the representative of Argentina expressed the view that analysis of the legal relationship between the OAS and the United Nations was not indispensable. He believed that the Council could agree on the practical proposition that since the OAS had already taken cognizance of the matter, it would be desirable to await the results of its action.^{322/}

At the 876th meeting on 19 July 1960, the representative of the USSR objected to the view that, since the matter was at the time being considered by the OAS, consideration of it by the Council should be adjourned. He said that Cuba had brought the matter to the Council, not to the OAS, and proposed certain amendments^{323/} to the draft resolution.^{324/}

At the same meeting the amendments of the USSR were rejected^{325/} by 2 votes in favour, 8 against, and 1 abstention, and the resolution jointly submitted by Argentina and Ecuador was adopted^{326/} by 9 votes in favour, none against, and 2 abstentions. The resolution^{327/} read:

"The Security Council,

"Having heard the statements made by the Foreign Minister of Cuba and by members of the Council,

"Taking into account the provisions of Articles 24, 33, 34, 35, 36, 52 and 103 of the Charter of the United Nations,

"Taking into account also articles 20 and 102 of the Charter of the Organization of American States of which both Cuba and the United States of America are members,

"Deeply concerned at the situation existing between Cuba and the United States of America,

"Considering that it is the obligation of all Members of the United Nations to settle their international disputes by negotiation and other peaceful means in such a manner that international peace and security and justice are not endangered,

"Noting that this situation is under consideration by the Organization of American States,

"1. Decides to adjourn the consideration of this question pending the receipt of a report from the Organization of American States;

"2. Invites the members of the Organization of American States to lend their assistance towards the achievement of a peaceful solution of the present situation in accordance with the purposes and principles of the Charter of the United Nations;

"3. Urges in the meantime all other States to refrain from any action which might increase the existing tensions between Cuba and the United States of America."

COMPLAINT BY THE USSR (RB-47 INCIDENT) INITIAL PROCEEDINGS

By telegram^{328/} dated 13 July 1960 to the Secretary-General, the Foreign Minister of the USSR requested an urgent meeting of the Security Council to examine the question of "New aggressive acts by the Air Force of the United States of America against the Soviet Union, creating a threat to universal peace", occurring on 1 July 1960. The need for immediate consideration of the question arose from the fact that United States military aircraft were continuing their "aggressive invasions" of Soviet airspace.

In an explanatory memorandum^{329/} of the same date it was stated that this was the second time within a few months that the question of aggressive acts by the United States Air Force had been submitted to the Council. Despite the Council's resolution of 27 May 1960,^{330/} appealing to all Governments to respect each other's territorial integrity and political independence and to refrain from acts that might increase tensions, the Government of the United States was openly flouting the appeal and continued to follow its provocative practices of dispatching its military aircraft into the airspace of the USSR. Notwithstanding signals given by a Soviet fighter aircraft to follow it down and make a landing, the violating aircraft penetrated further into Soviet airspace and consequently was shot down over Soviet territorial waters to the east of Cape Svyatoy Nos at 6.30 p.m. Moscow time on 1 July. According to evidence given at their interrogation by two crew members of the aircraft, the aircraft belonged to an air unit of the United States strategic military intelligence service, and had been carrying out special military reconnaissance missions. It was armed with 20-millimetre guns with a full supply of ammunition and had a compartment containing special photographic and radio-electronic reconnaissance equipment.

In addition to lodging a strong protest with the United States, the Soviet Government had also sent protests to the Governments of the United Kingdom and Norway because the aforementioned facts had implicated their countries in the United States aggressive designs.

At the 880th meeting on 22 July 1960, the Council decided^{331/} to include the question in its agenda. It was considered at the 880th to 883rd meetings, held between 22 and 26 July 1960.

^{320/} 874th meeting: paras. 95-124.

^{321/} S/4392, same text as S/4395, see below.

^{322/} 874th meeting: paras. 125-143. See chapter X, Cases 2 and 10; see also chapter XII, Case 24.

^{323/} S/4394, 876th meeting: paras. 105-107.

^{324/} 876th meeting: paras. 6-109.

^{325/} 876th meeting: para. 127.

^{326/} 876th meeting: para. 128.

^{327/} S/4395, O.R., 15th year, Suppl. for July-Sept. 1960, pp. 29-30.

^{328/} S/4384, *ibid.*, p. 12.

^{329/} S/4385, *ibid.*, pp. 13-15.

^{330/} S/4323, O.R., 15th year, Suppl. for April-June 1960, pp. 22-23.

^{331/} 880th meeting: preceding para. 1.

Decision of 26 July 1960 (883rd meeting): Rejection of the USSR, United States and Italian draft resolutions

At the 880th meeting on 22 July 1960, the representative of the USSR submitted a draft resolution^{332/} according to which the Security Council would: (1) condemn the provocative activities of the United States Air Force and regard them as aggressive acts; (2) insist that the Government of the United States should take immediate steps to put an end to such acts and to prevent their recurrence. He asserted that the incursions by United States aircraft were part of a broad and carefully conceived system of intelligence activities conducted by the United States against the USSR.^{333/}

At the same meeting, the representative of the United States maintained that at the time the Soviet Union claimed that the aircraft was brought down in Soviet waters it was actually 50 miles off the Soviet coast, and it was still in the air twenty minutes later, over the high seas 200 miles from the point alleged by the USSR Government, and flying in a northeasterly direction. He claimed, further, that at no time during its flight was the aircraft closer than 30 miles to the Soviet coast. Consequently, the Soviet Union was guilty of a criminal and piratical action against the United States. In its note to the USSR Government, the United States Government had requested the release of the two crew members who were being held. Its representative repeated the request at the Council meeting.^{334/}

At the 881st meeting on 25 July 1960, the representative of the United States introduced certain charts in order to describe better the course of the aircraft and to pin-point its location at the time it was brought down. He asserted that, contrary to the Soviet allegation that the aircraft had been on an aggressive mission, it had been on an electro-magnetic observation flight, and it carried no offensive weapons of any kind save two tail guns to protect it from attacks from the rear. With regard to the fate of the two crewmen, the United States representative maintained that international law and custom demanded that they must have the right to communicate with the United States mission in the host country. That right had not yet been honoured, nor had the Soviet Government seen fit to respond to the suggestion of the United States for an on-the-spot search for other missing crew members and the remains of the aircraft. The United States representative observed further that in accordance with the spirit of the Charter, particularly Article 33, the United States would not press for a condemnation of the Soviet Union.^{335/} The representative introduced a draft resolution^{336/} under which the Council would recommend, *inter alia*, that both countries undertake to resolve their differences arising out of the plane incident of 1 July 1960 either: (a) through investigation of the facts by a commission designated by both parties;^{337/}

^{332/} S/4406, 880th meeting: para. 58.

^{333/} 880th meeting: paras. 2-59.

^{334/} 880th meeting: paras. 60-63.

^{335/} 881st meeting: paras. 2-33.

^{336/} S/4409, 881st meeting: para. 29.

^{337/} See chapter X, Case 3.

or (b) through referral of the matter to the International Court of Justice for impartial adjudication.

At the same meeting, the representative of the USSR rejected the United States account of the incident and stated that the USSR Government was categorically opposed to the holding of an investigation and the establishment of any commission.^{338/}

The representative of France questioned the note of urgency on which the Soviet Union's request for a meeting had been sounded, and noted that it had waited thirteen days before bringing the incident to the attention of the Council. The matter, he added, should have been settled in the customary manner by negotiation, as recommended in Article 33 (1) of the Charter.^{339/}

At the 882nd meeting on 26 July 1960, the representative of Italy expressed the hope that the Soviet Government would allow the International Red Cross to get in touch with the survivors pending any other development or action,^{340/} and introduced a draft resolution^{341/} to this effect.

At the 883rd meeting on 26 July 1960, the President, speaking as the representative of Ecuador, suggested the addition of a final paragraph to the United States draft resolution to read:

"Requests the parties concerned to report to the Security Council, as appropriate, on the steps taken to carry out this resolution."^{342/}

The representative of the United States accepted the Ecuadorian amendment.^{343/}

At the same meeting, the USSR draft resolution was rejected^{344/} by 2 votes in favour and 9 against. The United States revised draft resolution failed of adoption. There were 9 votes in favour and 2 against (one of the negative votes being that of a permanent member).^{345/} The Italian draft resolution failed of adoption.^{346/} There were 9 votes in favour and 2 against (one of the negative votes being that of a permanent member).

LETTER OF 5 SEPTEMBER 1960 FROM THE USSR (ACTION OF THE OAS RELATING TO THE DOMINICAN REPUBLIC)

INITIAL PROCEEDINGS

By letter^{347/} dated 5 September 1960 addressed to the President of the Security Council, the First Deputy Minister for Foreign Affairs of the USSR requested an urgent meeting of the Security Council to consider a decision adopted by the Organization of American States on 20 August 1960 concerning the Dominican Republic, as stated in document S/4476. The letter noted that the decision provided

^{338/} 881st meeting: paras. 34-43.

^{339/} 881st meeting: paras. 73-93.

^{340/} 882nd meeting: paras. 18-43.

^{341/} S/4411, 882nd meeting: para. 42.

^{342/} 883rd meeting: para. 96.

^{343/} 883rd meeting: para. 142.

^{344/} 883rd meeting: para. 187.

^{345/} 883rd meeting: para. 188.

^{346/} 883rd meeting: para. 189.

^{347/} S/4477, O.R., 15th year, Suppl. for July-Sept. 1960, pp. 134-135.

for the application of enforcement action against the Trujillo régime including the breaking off of diplomatic relations with the Dominican Republic. It then recommended that the Council should consider the question and endorse the decision of the OAS, which was designed to remove the threat to peace and security created by the actions of the Dominican authorities. In support of this recommendation, the letter cited the provisions of Article 53 of the Charter which provided that the Council should utilize "regional arrangements or agencies for enforcement action under its authority", and that "no enforcement action should be taken under regional arrangements or by regional agencies without the authorization of the Security Council".

At the 893rd meeting on 8 September 1960, the Council decided^{348/} without vote to include the question in the agenda. It was considered at its 893rd to 895th meetings held on 8 and 9 September 1960. The representative of Venezuela was invited to take part in the discussions.^{349/}

Decision of 9 September 1960 (895th meeting): Taking note of the report from the Organization of American States transmitting the Final Act of the Sixth Meeting of Consultation of Ministers of Foreign Affairs of the American Republics, especially of the resolution on the application of measures regarding the Dominican Republic

At the 893rd meeting on 8 September 1960, the President (Italy) called attention to a draft resolution^{350/} submitted by the representative of the USSR, and a draft resolution^{351/} jointly submitted by Argentina, Ecuador and the United States.

In introducing his draft resolution, under which the Council, in accordance with Article 53^{352/} of the Charter, would approve the resolution of the Sixth Meeting of Consultation of Ministers of Foreign Affairs of the American Republics dated 20 August 1960, the representative of the USSR asserted that the Government of the Dominican Republic had committed acts of intervention and aggression against Venezuela, violating the sovereignty of that State, and created a threat to international peace and security. He stated that his Government regarded as appropriate the resolution adopted at the above-mentioned Meeting of Consultation, which condemned the aggressive actions of the Trujillo régime against Venezuela, and felt that the Members of the United Nations could not fail to support the decision of the Organization of American States as to the necessity of taking enforcement action, in fact sanctions, against the Government of the Dominican Republic. The application of such sanctions was fully in accord with Articles 39 and 41 of the Charter. However, since the Charter entrusted the Security Council with the primary responsibility for the maintenance of international peace and security, and provided that no enforcement action should be taken without its authori-

zation, it was necessary for the Council to approve the decision of the Organization of American States.^{353/}

The representative of Argentina observed that the USSR note had raised in the Council, for the first time, the question of the interpretation of Article 53 of the Charter in connexion with steps taken by regional agencies. Implied in the Soviet note was the view that the Security Council was entitled to annul or revise measures taken by the OAS regarding one of its members. However, he believed that was not the proper juncture at which to take final decision on that question. In any case, he doubted whether the Soviet interpretation was the correct one. Instead, he favoured the argument that measures taken regionally would be subject to the Council's ratification only if they called for the use of armed force. As to the draft resolution which his delegation co-sponsored, the representative of Argentina stated that such a text showed the Security Council's concern in matters of international peace and security and left the door open for a constructive interpretation of Article 53 of the Charter in circumstances more favourable than those prevailing at that time.^{354/}

At the same meeting, the representative of the United States observed that the actions of the Organization of American States had been reported to the Security Council in accordance with Article 54 of the Charter, and he rejected that the contention of the USSR that under Article 53 the decisions of the OAS required any endorsement by the Security Council. He further maintained that no member of the OAS had sought authorization of the Council, under Article 53, for the steps taken in connexion with the decision. The OAS had specifically decided that the resolution should be transmitted to the Council only for its information, as required by Article 54. This Article clearly envisaged the possibility of activities by regional agencies for the maintenance of international peace and security, in regard to which the responsibility of the regional organization to the Security Council was purely that of keeping the Council informed. Moreover, the action taken collectively by members of the OAS could also be taken individually by any sovereign nation on its own initiative. His co-sponsorship of the draft resolution was based on the view that it was entirely proper for the Council, in the instance before it, merely to take note of the resolution adopted by the OAS.^{355/}

At the 895th meeting on 9 September the representative of Ecuador requested that priority be given to the draft resolution jointly sponsored with Argentina and the United States, and appealed to the USSR for agreement in this respect.^{356/} There was no objection. The Council voted on the draft resolution, which was adopted by 9 votes in favour, none against, with 2 abstentions.^{357/} The resolution^{358/} read as follows:

"The Security Council,

^{348/} 893rd meeting: para. 6.

^{349/} 893rd meeting: para. 27.

^{350/} S/4481 and S/4481/Rev.1, 893rd meeting: para. 25.

^{351/} S/4484, same text as S/4491, see below.

^{352/} See chapter XII, Case 25.

^{353/} 893rd meeting: paras. 10-26.

^{354/} 893rd meeting: paras. 28-43.

^{355/} 893rd meeting: paras. 44-54.

^{356/} 895th meeting: para. 16.

^{357/} 895th meeting: para. 18.

^{358/} S/4491, C.R., 15th year, Suppl. for July-Sept. 1960, p. 145.

"Having received the report from the Secretary-General of the Organization of American States transmitting the Final Act of the Sixth Meeting of Consultation of Ministers of Foreign Affairs of the American States (S/4476),

"Takes note of that report and especially of resolution I, approved at the aforesaid Meeting, whereby agreement was reached on the application of measures regarding the Dominican Republic."

The representative of the USSR remarked that, in the light of the discussion and the vote, the majority of the members were not ready at that time to vote for the Soviet draft resolution, although they did not object to its substance. Consequently, he would not press for a vote on his draft resolution. Explaining his vote on the joint draft resolution, he stated that his delegation had abstained because the three-Power draft resolution which proposed that the Council limit itself to taking note of the decision of the OAS was not sufficiently comprehensive. Furthermore, while none of the members objected to the Council noting the action of the OAS, his delegation's draft resolution had expressed that concept more exactly and definitely. He stressed that the decision of the OAS fell completely under Article 53, and that regional agencies might apply sanctions only with the concurrence of the Security Council. However, since no one had challenged that position, although some members tried to evade consideration of the substantive issue, noting that they were not ready to deal with it at that time, the USSR delegation interpreted this to mean that the door was being left open for full support of the Charter provisions in this regard in other circumstances.^{359/}

The representative of the United States expressed his disagreement with the Soviet interpretation of the vote, maintaining that the three-Power draft resolution was not submitted under Article 53. Contrary to the contention that the matter was being left open for future consideration by the Council, his delegation regarded the item as completed, and believed that future proposals should be judged on their merits.^{360/}

The President stated that the Council should consider examination of the question as completed and, after further discussion, he declared that the Council had disposed of the matter.^{361/}

COMPLAINT BY CUBA (LETTER OF 31 DECEMBER 1960)

INITIAL PROCEEDINGS

By letter^{362/} dated 31 December 1960 addressed to the President of the Security Council, the Minister for External Relations of Cuba asserted that the United States, in violation of the United Nations Charter and the most elementary principles of international law, was about to perpetrate "within a few hours" direct military aggression against Cuba, thus

placing in grave peril international peace and security. In justification of these hostile preparations, the United States had invoked the "fraudulent pretext" of "the construction on the island of Cuba of seventeen sites for the launching of Soviet rockets". He noted instances of "psychological warfare" in which the United States had sought to manoeuvre toward the diplomatic isolation of Cuba. The request for an immediate meeting of the Security Council to "examine the situation thoroughly" was based on Articles 24 (1), 31, 32, 34, 35 (1), 52 (4) and 103 of the Charter, and on the relevant rules of procedure of the Council.

At the 921st meeting on 4 January 1961, the Council considered the inclusion of the item in its agenda. The representative of the United States, while describing the item as "totally fraudulent", informed the Council that his delegation would not oppose its inclusion in the agenda.^{363/} The agenda was adopted,^{364/} and the Council considered the Cuban complaint at its 921st to 923rd meetings held between 4 and 5 January 1961. The President (United Arab Republic) invited the representative of Cuba to participate in the discussion.^{365/}

Decision of 5 January 1961 (923rd meeting): Statement by the President expressing confidence that the debate would help in reducing tensions between the two countries and that nothing would be done to aggravate the situation

At the 921st meeting on 4 January 1961, before the adoption of the agenda, the representative of the United States rejected the charge of imminent invasion and stated further that it was not the United States which was isolating Cuba, but that by its own actions Cuba was isolating itself. He repeated previous assurances that the United States was not planning to invade Cuba and claimed that any information concerning such a plan was erroneous and without either logic or evidence. It was Cuba, he contended, that was the real attacker, and its targets were not only the United States but all the Governments of the Western Hemisphere with whose policies Cuba did not agree. These were the real threats to the hemisphere and the concern of the Organization of American States, the proper organ to which the Cuban complaint should have been first submitted.^{366/}

At the same meeting, the representative of Cuba stated that an invasion was imminent. The initiative taken by the United States in breaking off diplomatic relations with Cuba, in accordance with its "strategic plan", gave this imminence an especially grave character. In support of this allegation, he referred to the arming and financing of the counter-revolutionary mercenary forces by the United States Government and cited certain Press reports concerning the presence of thirteen warships without flags or registration in the Bay of Puerto Barrios, Guatemala, the encampment of hundreds of armed men in the Sierra del Petén near the Mexican frontier, together with the fact that two destroyers had been placed on the alert

^{359/} 895th meeting: paras. 21-24.

^{360/} 895th meeting: paras. 31-32.

^{361/} 895th meeting: para. 33.

^{362/} S/4605, O.R., 15th year, Suppl. for Oct.-Dec. 1960, pp. 107-109.

^{363/} 921st meeting: para. 36.

^{364/} 921st meeting: para. 53.

^{365/} 921st meeting: para. 54.

^{366/} 921st meeting: paras. 32-34, 41-42, 48-52.

at Key West, ninety miles from Cuba. He then expressed the view that only the climax of the plan was lacking, since the action had already been prepared and could be carried out at any time.^{367/}

At the 922nd meeting on 4 January 1961, the representative of the United States admitted his Government's aid to refugees forced to leave Cuba without money or property, but denied that it had supported military incursions by these groups. With regard to the break in diplomatic relations with Cuba, he cited several instances of hostile and provocative actions which destroyed the confidence and mutual respect necessary for effective diplomatic relations and made the maintenance of the United States Embassy in Havana impossible. Further, he noted that in accusing the United States of invasion plans, Cuba seemed unmindful that it had considered itself destined to "... act as a springboard for all the popular forces of Latin America following a destiny identical to that of Cuba".^{368/}

At the same meeting, the representative of Ecuador introduced a draft resolution^{369/} jointly submitted with Chile. Under the draft resolution the Council would remind the parties of their Charter obligation to settle disputes by peaceful means, and recommend that every effort should be made to fulfil such an obligation.^{370/}

At the 923rd meeting on 5 January 1961, the representative of France questioned the allegation of imminent "military aggression" and noted that four days had since elapsed with no such occurrence.^{371/}

At the same meeting, the representative of the United Kingdom referred to another letter^{372/} from the Minister for External Relations of Cuba dated 3 January 1961 and addressed to the President of the Council which, like the previous letter, reported that direct military aggression was about to be committed against Cuba, but noted that a charge of impending aggression, or the intention to commit aggression was in any event more difficult to sustain than a charge of aggression actually committed. So far, however, no evidence had been produced which convincingly supported the accusation. He observed also that both the United States and Cuba had expressed themselves negatively on resolutions of the kind submitted by Chile and Ecuador, and maintained that further action by the Council would be unnecessary and of no positive value.^{373/}

At the same meeting, the representative of Chile expressed regret that the joint draft resolution submitted by Chile and Ecuador had not been supported, since it had been prompted by a desire for constructive co-operation, and with a view to the re-establishment of normal relations. However, in the light of the negative attitudes apparent in the discussion, he

would not press for a vote on the draft resolution.^{374/} The representative of Ecuador concurred in this.^{375/}

At the conclusion of the meeting, the President (United Arab Republic) made a statement expressing confidence that the debate would help "in reducing the tension between the Republic of Cuba and the United States, whose relations should be governed by the Charter of the United Nations", and that, therefore, nothing would be done to aggravate the existing tensions.^{376/}

SITUATION IN ANGOLA

INITIAL PROCEEDINGS

By letter^{377/} dated 20 February 1961, the representative of Liberia requested the President of the Security Council to convene an early meeting of the Council "to deal with the crisis in Angola". After expressing his Government's concern regarding recent developments in Angola, he stated that immediate action should be taken by the Security Council to prevent further deterioration and abuse of human rights and privileges in Angola.^{378/}

By letter^{379/} dated 7 March 1961, the representative of Portugal protested against the request of Liberia for inscription in the Council's agenda of a matter which Portugal considered to be within its exclusive jurisdiction.

The letter from the representative of Liberia was placed on the provisional agenda of the 943rd meeting of the Council on 10 March 1961 and the agenda was adopted at the 944th meeting.^{380/} The Council considered the question at its 943rd to 946th meetings between 10 and 15 March 1961. After the adoption of the agenda, the representative of Portugal was invited to the Council table.^{381/} At the 945th meeting on 14 March 1961, the representatives of Ghana and the Congo (Brazzaville) were invited to the Council table.^{382/}

At the 943rd meeting of the Council on 10 March, the representative of Liberia, explaining his reasons for the submission of the question to the Security Council, stated that consideration had become necessary because of serious loss of life in Angola and the existence of conditions which had become a complete violation of human rights. In invoking Article 34 of the Charter, the Liberian Government

^{374/} 923rd meeting: paras. 44-63.

^{375/} 923rd meeting: paras. 95-111.

^{376/} 923rd meeting: para. 178.

^{377/} S/4738, O.R., 16th year, Suppl. for Jan.-March 1961, p. 145.

^{378/} At the 934th meeting on 15 February 1961, in connexion with the adoption of the provisional agenda dealing with the situation in the Congo, the representative of Liberia had proposed that a new item dealing with the disturbances in Angola be added to the provisional agenda. He requested the inscription of the item on the agenda under Article 34, because fundamental rights were being violated in Angola, and the situation was likely to endanger the maintenance of international peace and security. However, the President ruled that under rules 6 and 7 of the provisional rules of procedure, it would be impossible to add an item to the agenda in the manner suggested by the representative of Liberia (934th meeting: paras. 4-11). For consideration of the inclusion of the question in the agenda, see chapter II, Case 4.

^{379/} S/4760, O.R., 16th year, Suppl. for Jan.-March 1961, pp. 227-228.

^{380/} 944th meeting: para. 8.

^{381/} 944th meeting: para. 31.

^{382/} 945th meeting: para. 2.

^{367/} 921st meeting: paras. 56-60, 63-125.

^{368/} 922nd meeting: paras. 2-40.

^{369/} S/4612, O.R., 16th year, Suppl. for Jan.-March 1961, p. 16; 922nd meeting: paras. 42-55.

^{370/} See chapter X, Case 4.

^{371/} 923rd meeting: paras. 9-23.

^{372/} S/4611, O.R., 16th year, Suppl. for Jan.-March 1961, pp. 15-16.

^{373/} 983rd meeting: paras. 27-43.

wished to draw attention to a dangerous situation which not only threatened the peace in Angola, but was also a threat to world peace.^{383/}

After the adoption of the agenda at the 944th meeting, the representative of Portugal* stated that his delegation considered the inscription of the item on the agenda of the Council as illegal. Under the terms of Article 24 (2), the Security Council had its competence specifically limited to matters referred to in Chapters VI, VII, VIII and XII of the Charter, none of which could conceivably apply to the case before the Council.^{384/} The Liberian complaint had made no mention of any dispute between Portugal and any other State; therefore, none of the cases foreseen in Articles 33 and 34 was under consideration.^{385/} Liberia had based its complaint on a vague reference to violation of human rights, and this was not within the competence of the Council. Moreover, under the terms of Article 2 (7) of the Charter, the United Nations could not intervene in matters essentially within the domestic jurisdiction^{386/} of any State.^{387/}

Decision of 15 March 1961 (946th meeting): Rejection of the draft resolution submitted by Ceylon, Liberia and the United Arab Republic

At the 945th meeting on 14 March 1961, the representative of Liberia introduced a draft resolution^{388/} jointly sponsored with Ceylon and the United Arab Republic. Referring in the preamble to a situation likely to endanger international peace and security, and recalling General Assembly resolutions 1514 (XV) of 14 December 1960, and 1541 (XV) and 1542 (XV) of 15 December 1960, in its operative part this draft resolution would have the Security Council: (1) call upon the Government of Portugal to consider urgently the introduction of measures and reforms in Angola for the purpose of the implementation of General Assembly resolution 1514 (XV) of 14 December 1960, with due respect for human rights and fundamental freedoms and in accordance with the Charter; and (2) decide to appoint a sub-committee and instruct this sub-committee to examine the statements made before the Security Council concerning Angola, to receive further statements and documents and to conduct such inquiries as it deemed necessary and to report to the Security Council as soon as possible.

At the 946th meeting on 15 March 1961, the joint draft resolution submitted by Ceylon, Liberia and

^{383/} 943rd meeting: paras. 9-22. The request of Liberia to consider the situation in Angola was supported in a letter dated 10 March 1961 (S/4762, O.R., 16th year, Suppl. for Jan.-March 1961, pp. 246-247) by the representatives of Afghanistan, Burma, Cameroon, Central African Republic, Chad, Congo (Brazzaville), Congo (Leopoldville), Dahomey, Ethiopia, Gabon, Ghana, Guinea, India, Indonesia, Iran, Iraq, Jordan, Lebanon, Libya, Madagascar, Mali, Morocco, Nepal, Niger, Nigeria, Pakistan, Saudi Arabia, Senegal, Somalia, Sudan, Togo, Tunisia, Upper Volta and Yemen. These delegations considered that this was a situation with grave potentialities for international friction which endangered the maintenance of international peace and security.

^{384/} For discussion in relation to Article 24 (2), see chapter XII, part III.

^{385/} For discussion relating to Articles 33 and 34, see chapter X, Case 11.

^{386/} For discussion relating to Article 2 (7), see chapter XII, Case 16.

^{387/} 944th meeting: paras. 33-54.

^{388/} S/4769, 945th meeting: para. 107.

the United Arab Republic was put to the vote and rejected by 5 votes in favour, none against, and 6 abstentions.^{389/}

By letter ^{390/} dated 26 May 1961 addressed to the President of the Security Council, the representatives of Afghanistan, Burma, Cambodia, Cameroon, Central African Republic, Ceylon, Chad, Congo (Brazzaville), Congo (Leopoldville), Cyprus, Dahomey, Ethiopia, Federation of Malaya, Gabon, Ghana, Guinea, India, Indonesia, Iran, Iraq, Ivory Coast, Japan, Jordan, Laos, Lebanon, Liberia, Libya, Madagascar, Mali, Morocco, Nepal, Nigeria, Philippines, Saudi Arabia, Senegal, Somalia, Sudan, Tunisia, United Arab Republic, Upper Volta, Yemen and Yugoslavia requested that a meeting of the Security Council be called, as a matter of urgency, to consider the situation in Angola. They charged that the massacres in Angola were continuing and human rights were being continually suppressed. These acts, together with the armed suppression of the Angolan people and the denial of the right to self-determination, were in contravention of the United Nations Charter and of the General Assembly resolution on Angola and constituted a serious threat to international peace and security. On 2 June, Togo, and on 9 June, Pakistan associated themselves with this request.

At its 950th meeting on 6 June 1961, the Council included the request of the forty-four Member States in its agenda.^{391/}

The Council considered the question at its 950th to 956th meetings, between 6 and 9 June 1961.

In accordance with the decision taken at the 950th and subsequent meetings, the representatives of Portugal, India, Ghana, Congo (Leopoldville), Congo (Brazzaville), Nigeria, Mali, Ethiopia and Morocco were invited, at their request, to take seats at the Council table.^{392/}

Decision of 9 June 1961 (956th meeting): Requesting the Sub-Committee on the Situation in Angola to implement its mandate without delay

Opening the debate at the 950th meeting on 6 June 1961, the representative of Liberia stated that the situation in Angola had deteriorated further since its consideration by the Security Council and the General Assembly in March and April 1961 respectively.^{393/} In its resolution 1603 (XV) of 20 April 1961, the General Assembly, recognizing that the situation in Angola was likely to endanger the maintenance of international peace and security, had called upon Portugal to consider urgently the intro-

^{389/} 946th meeting: para. 165.

^{390/} S/4816. By S/4816/Add.1 and 2, Togo and Pakistan were added to the list of signatories. O.R., 16th year, Suppl. for April-June 1961, pp. 57-59.

^{391/} 950th meeting: para. 8.

^{392/} 950th meeting: paras. 9, 10; 952nd meeting: para. 1; 953rd meeting: para. 1.

^{393/} Following the failure of adoption of a resolution on Angola in the Security Council (946th meeting), the Liberian delegation with other African-Asian delegations had brought the matter before the General Assembly, where it was considered on 20 April 1961 (990th to 992nd plenary meetings). After a full discussion, the Assembly adopted resolution 1603 (XV) entitled "The situation in Angola" by 73 votes to 2, with 9 abstentions.

duction of measures and reforms in Angola. It had also established a sub-committee to investigate the situation in Angola and to report to the General Assembly. But the Government of Portugal, instead of implementing the resolution, had stepped up its military repression of the Angolan people. The acute and urgent nature of such a situation required prompt and effective action by the Security Council. To this end, the representative of Liberia introduced a draft resolution jointly sponsored with Ceylon and the United Arab Republic,^{394/} whereby the Council, convinced that the situation in Angola was a threat to international peace and security, would call upon the Portuguese authorities to desist forthwith from repressive measures, and act in accordance with the terms of General Assembly resolution 1603 (XV); further, it would request the Sub-Committee appointed in terms of General Assembly resolution 1603 (XV) to implement its mandate without delay, and report to the Security Council and the General Assembly as soon as possible.^{395/}

At the same meeting, the representative of Portugal* protested against the inclusion in the Council's agenda of a matter pertaining exclusively to the internal jurisdiction and security of Portugal, and thus in violation of Article 2 (7).^{396/} Articles 34 and 35 had been wrongly invoked in a previous debate, as Portugal had not created an international dispute with any of the States requesting or supporting the inscription of the item. Allegations of the violation of human rights had been made, but the discussion of human rights was excluded from the functions of the Council by Article 24 of the Charter. This Article granted specific powers to the Security Council for the discharge of those duties laid down in Chapters VI, VII, VIII and XII. It did not include Chapter IX, where Articles 55 and 56 dealing with human rights appeared.^{397/}

At the 955th meeting on 9 June 1961, the representative of Chile submitted amendments^{398/} to the joint draft resolution to: (1) in the fourth preambular paragraph, replace the words "threat to" by "is likely to endanger the maintenance of"; and (2) between operative paragraphs 3 and 4 insert the following additional paragraph: "Expresses the hope that a peaceful solution will be found to the problem of Angola in accordance with the Charter of the United Nations".

At the 956th meeting on the same day, the representative of the USSR submitted the following amendment^{399/} to operative paragraph 3 of the draft resolution: insert the following at the beginning of operative paragraph 3: "Condemning the colonial war against the Angolan people", and continue as in the draft resolution.

^{394/} S/4825, 950th meeting; para. 35.

^{395/} 950th meeting; paras. 11-41.

^{396/} In a letter dated 3 June 1961 (S/4821, O.R., 16th year, Suppl. for April-June 1961, pp. 60-61), the representative of Portugal had protested against the request of the forty-four Member States for inscription on the Council's agenda of a matter which his Government considered to be within its exclusive jurisdiction.

^{397/} 950th meeting; paras. 80-108.

^{398/} S/4833/Rev.1, 955th meeting; paras. 66 and 68.

^{399/} S/4834, 956th meeting; para. 12c.

At the same meeting, the Council voted upon the draft resolution and the amendments before it.

The Chilean amendments were adopted by 9 votes in favour to none against, with 2 abstentions.^{400/}

The USSR amendment received 4 votes in favour, 3 against, with 4 abstentions, and was not adopted.^{401/}

The draft resolution, as amended, was adopted by 9 votes in favour to none against, with 2 abstentions.^{402/} It read as follows:^{403/}

"The Security Council,

"Having considered the situation in Angola,

"Deeply deploring the large-scale killings and the severely repressive measures in Angola,

"Taking note of the grave concern and strong reactions to such occurrences throughout the continent of Africa and in other parts of the world,

"Convinced that the continuance of the situation in Angola is an actual and potential cause of international friction and is likely to endanger the maintenance of international peace and security,

"Recalling General Assembly resolution 1512 (XV) of 15 December 1960 declaring Angola among others a Non-Self-Governing Territory within the meaning of Chapter XI of the Charter as well as General Assembly resolution 1514 (XV) of 14 December 1960, by which the General Assembly declared without dissent that the subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and co-operation and asked for immediate steps to be taken to transfer all powers to the peoples of these Territories, without any conditions or reservations, in accordance with their freely expressed will and desire, without any distinction as to race, creed or colour, in order to enable them to enjoy complete independence and freedom,

"1. Reaffirms General Assembly resolution 1603 (XV) of 20 April 1961 and calls upon Portugal to act in accordance with the terms of that resolution;

"2. Requests the Sub-Committee on the Situation in Angola, appointed under the terms of the aforesaid General Assembly resolution, to implement its mandate without delay;

"3. Calls upon the Portuguese authorities to desist forthwith from repressive measures and further to extend every facility to the Sub-Committee to enable it to perform its task expeditiously;

"4. Expresses the hope that a peaceful solution will be found to the problem of Angola in accordance with the Charter of the United Nations;

"5. Requests the Sub-Committee to report to the Security Council and the General Assembly as soon as possible."

^{400/} 950th meeting; para. 157.

^{401/} 956th meeting; para. 158.

^{402/} 956th meeting; para. 159.

^{403/} S/4835, O.R., 16th year, Suppl. for April-June 1961, p. 67.

COMPLAINT BY KUWAIT, COMPLAINT BY IRAQ

INITIAL PROCEEDINGS

By telegram^{404/} dated 1 July 1961, the State Secretary of Kuwait requested the President of the Security Council to call a meeting to consider urgently the following question:

"Complaint by Kuwait in respect of the situation arising from threats by Iraq to the territorial independence of Kuwait which is likely to endanger the maintenance of international peace and security."

By letter^{405/} dated 1 July 1961, the representative of the United Kingdom expressed his Government's support for the request from the Ruler of Kuwait and requested that a meeting of the Council be called accordingly.

By letter^{406/} dated 2 July 1961, the representative of Iraq requested that the Security Council be convened to consider the following question:

"Complaint by the Government of the Republic of Iraq in respect of the situation, arising out of the armed threat by the United Kingdom to the independence and security of Iraq which is likely to endanger the maintenance of international peace and security."

At the 957th meeting on 2 July 1961, the provisional agenda of the Security Council included the two items submitted by the United Kingdom and Kuwait and by Iraq, respectively, as items 2 and 3. Following the adoption of the agenda, the representative of Iraq was invited to participate in the discussions. At the 958th meeting on 5 July 1961, the representative of Kuwait was also invited to participate.^{407/} The Council considered the question at its 957th to 960th meetings, between 2 and 7 July 1961.

Decisions of 7 July 1961 (960th meeting): Rejection of the United Kingdom and United Arab Republic draft resolutions; Statement by the President

At the 957th meeting on 2 July 1961, the representative of the United Kingdom stated that his Government had dispatched a force to Kuwait in response to an urgent request of the Ruler of Kuwait and pursuant to a treaty obligation to the latter. It had been placed at the Ruler's disposal to afford such assistance as he might consider necessary for the preservation of the independence of Kuwait in the face of recent developments there. He emphasized his Government's hope that the necessity to make use of this force would not arise and that it would be withdrawn as soon as the Ruler considered that the threat to the independence of Kuwait was over. The action was in no way hostile to Iraq and the force could only be employed in a combat role if Kuwait were attacked from across the border.^{408/}

The representative of Iraq stated that his Government had repeatedly indicated that it would employ only peaceful means to settle its difficulty with Kuwait and had denied the unsubstantiated reports of any troop concentrations in southern Iraq. In the absence of any troop concentrations and in view of the repeated assurances given by his Government, it must conclude that this complaint by the United Kingdom had been lodged "in order to cover up and justify the blatant act of aggression committed by the United Kingdom by landing its forces in Kuwait". This was the reason why his Government had requested the consideration by the Council of the situation arising out of the landing of the United Kingdom troops in the Arab country of Kuwait, an integral part of Iraq—a situation which was likely to endanger international peace and security and to violate and threaten the independence, security and territorial integrity of Iraq. He further maintained that the treaty of 1899 to which the Government of the United Kingdom referred was nothing but an agreement concluded by a British agent with a local administrative officer of a sovereign State. It had, therefore, no legal validity whatsoever and could not be considered as binding on any side. Finally, he expressed the hope that the Council would be in a position to order the unconditional and immediate withdrawal of the British forces from Kuwait.^{409/}

At the 959th meeting on 6 July 1961, the representative of the United Kingdom submitted a draft resolution^{410/} under which the Council would call upon all States to respect the independence and territorial integrity of Kuwait; urge that all concerned should work for peace and tranquillity in the area; and agree to keep the situation under review.

At the 960th meeting on 7 July 1961, the representative of the United Arab Republic introduced a draft resolution^{411/} under which the Council would urge that the question be solved by peaceful means and call upon the United Kingdom to withdraw immediately its forces from Kuwait.

At the 960th meeting on 7 July 1961, the United Kingdom draft resolution failed of adoption.^{412/} There were 7 votes in favour, 1 against, with 3 abstentions (the negative vote being that of a permanent member of the Council).

At the same meeting, the draft resolution submitted by the United Arab Republic was not adopted.^{413/} There were 3 votes in favour, none against, with 8 abstentions.

Before adjourning the meeting, the President (Ecuador) stated:

"I would appeal to them—and I think that I am speaking for the Council as a whole in doing so—to realize the hope expressed here by abstaining from any action that may aggravate the situation. That is a hope which I express as President of the Council.

"I should also like to state that we and all the other members of the Council will remain vigilant

^{404/} S/4844, O.R., 16th year, Suppl. for July–Sept. 1961, p. 1.

^{405/} S/4845, *ibid.*, pp. 1–2.

^{406/} S/4847, *ibid.*, p. 2; see also S/4848, *ibid.*, p. 3.

^{407/} 957th meeting: para. 13; 958th meeting: para. 21.

^{408/} 957th meeting: paras. 15–17, 35–37.

^{409/} 957th meeting: paras. 52–53, 65–67, 73.

^{410/} S/4855, O.R., 16th year, Suppl. for July–Sept. 1961, p. 5; 959th meeting: para. 61.

^{411/} S/4856, *ibid.*, p. 6; 960th meeting: para. 11.

^{412/} 960th meeting: para. 44.

^{413/} 960th meeting: para. 45.

with regard to the dangerous situation that unfortunately still exists. As President, I shall be prepared to convene the Council whenever circumstances make it necessary to do so."^{414/}

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

COMPLAINT BY TUNISIA

INITIAL PROCEEDINGS

By telegram^{415/} dated 20 July 1961 addressed to the President of the Security Council, the Secretary of State for Foreign Affairs of Tunisia informed the President that the town and gouvernorat of Bizerta had been under attack by French naval and air forces since the afternoon of 19 July, and requested a meeting of the Security Council as a matter of extreme urgency for the purpose of considering a complaint against France "for acts of aggression infringing the sovereignty and security of Tunisia and threatening international peace and security". By letter^{416/} of the same date addressed to the President of the Council, the representative of Tunisia reiterated the request and submitted an explanatory memorandum which stated that, in addition to the air and naval attacks of 19 July, 800 French paratroopers had been dropped over Bizerta, thus violating Tunisia's airspace, despite the categorical prohibition of the Tunisian Government. During the night of 19/20 July, French armoured units had also taken up positions outside the Bizerta base. These acts represented a flagrant violation of the airspace and the territorial integrity of Tunisia and also constituted a clear and premeditated act of aggression, gravely threatening international peace and security. After recalling the repeated efforts made by Tunisia to obtain the evacuation of French troops from the Bizerta base and a portion of the south-east territory of Tunisia, which was also occupied by French forces, the memorandum stated that on 6 July a final approach had been made in the form of a personal message from President Bourguiba to General de Gaulle. No reply had been given to that last attempt to obtain a peaceful settlement. Following this demonstration of France's intention to flout Tunisia's national dignity, the Tunisian Government was forced to take steps similar to those taken after the act of aggression at Sakiet-Sidi-Youssef and was compelled to exercise its right of self-defence^{417/} in accordance with Article 51 of the Charter.

^{414/} 960th meeting: paras. 82-83.

^{415/} S/4861, O.R., 16th year, Suppl. for July-Sept. 1961, p. 6.

^{416/} S/4862, *ibid.*, pp. 7-9.

^{417/} In a letter dated 20 July 1961 (S/4864, O.R., 16th year, Suppl. for July-Sept. 1961, pp. 11-14) the representative of France requested the circulation of the text of two notes dated 18 and 20 July 1961 respectively which had been delivered to the office of the Secretary of State for Foreign Affairs of Tunisia. In the first note, the French Government noted that the measures announced by the President of the Republic of Tunisia were designed, not to restore normal conditions, but on the contrary to increase tension. Action of this nature would, moreover, serve only to delay conversations concerning the Bizerta base, which were provided for in the exchange of letters of 17 June 1958 and which the French Government still wished to see opened. In the face of the increasingly serious threats, the French Government was compelled to take all necessary steps to ensure the inviolability of the base installations and freedom of communication between them. In the note of 20 July, the French Government warned the Tunisian Government against the attempt it had announced to cripple the Bizerta base by

At its 961st meeting on 21 July 1961, the Security Council included the item on its agenda.^{418/} The Council considered the question at its 961st to 966th meetings held between 21 and 29 July 1961. After the adoption of the agenda, the President (Ecuador) invited the representative of Tunisia to the Council table.^{419/}

Decision of 22 July 1961 (962nd meeting): Calling for an immediate cease-fire and a return of all armed forces to their original position and deciding to continue the debate

Opening the debate, the representative of Tunisia* stated that since 19 July 1961 France had been committing armed, premeditated and continuous aggression against Tunisia, which had, with great patience and understanding, made every effort using diplomatic means to secure the evacuation of foreign forces from its territory. Those efforts had been fruitless; even President Bourguiba's personal appeal on 6 July to General de Gaulle had gone unanswered, on the pretext that popular demonstrations made negotiations impossible. Tunisia was fighting because it was the victim of aggression by forces far stronger than its own, and was using its right of self-defence under Article 51 of the Charter in order to regain its legitimate sovereignty over all its territory. In that situation, he called on the Council to bring an immediate end to the aggression; to assist Tunisia to repel the aggression, if necessary; and to assist Tunisia in removing from its territory the permanent danger of aggression constituted by the presence of French troops on Tunisian territory against its will.^{420/}

The representative of France stated that his Government would have had every justification if it had complained to the Council of the premeditated and systematic aggression committed by the Tunisian Government in Bizerta against the French Government. The legal basis for the French military presence in Bizerta was to be found in the exchange of letters of June 1958 between the French and Tunisian Governments, which provided for the maintenance of the base at Bizerta pending negotiation of a final agreement on the evacuation of the French forces stationed throughout Tunisia. The evacuation of all forces outside Bizerta had been completed in October 1958. The French Government had taken the initiative in proposing to the Government of Tunisia that talks be held in connexion with the base. That invitation had been renewed repeatedly, and negotiations had taken place on many occasions. However, they had never been fruitful. The French Government was, therefore, not opposed to negotiations, but the military and aggressive actions of the Tunisian authorities made it impossible. The French Government had solemnly warned the Tunisian Government against action which it had deliberately undertaken and for which it bore full and sole responsibility.^{421/}

means of popular demonstrations and force. It further stated that on 19 July and during the night of 19/20 July the Tunisian authorities had taken the initiative in committing deliberate acts of aggression against the French installations and forces. The latter, after waiting for a long time, had been compelled to retaliate in self-defence.

^{418/} 961st meeting: para. 2.

^{419/} 961st meeting: para. 3.

^{420/} 961st meeting: paras. 5-62.

^{421/} 961st meeting: paras. 63-67.

At the 962nd meeting on 22 July 1961, the Secretary-General stated that, in view of his obligations under Article 99 of the Charter, he considered it his duty to make an urgent appeal to the Council to consider, without delay, the taking of an interim decision pending the further consideration of the item and conclusion of the debate. Such a decision should not prejudice the final outcome of the deliberations of the Council as it would, in his view, only request of the two States concerned an immediate cessation, through a cease-fire, of all hostile actions. Naturally, this request should be combined with a demand for an immediate return to the *status quo ante*, as otherwise the cease-fire would be likely to prove too unstable to satisfy the urgent needs of the moment.^{422/}

After the resumption of the meeting which, on the proposal of the representative of the United States, had been suspended for an hour, the representative of Liberia introduced a draft resolution^{423/} along the lines suggested by the Secretary-General, and requested that it receive priority. At the same meeting the Council adopted the Liberian draft resolution by 10 votes in favour, none against and no abstentions.^{424/} France did not participate in the voting.

The resolution^{425/} read:

"The Security Council,

"Considering the gravity of the situation prevailing in Tunisia,

"Pending the conclusion of the debate of the item on its agenda,

"1. Calls for an immediate cease-fire and a return of all armed forces to their original position;

"2. Decides to continue the debate."

Decisions of 22 July 1961 (963rd meeting): Rejection of a draft resolution jointly submitted by the United Kingdom and the United States, and of a draft resolution jointly submitted by Liberia and the United Arab Republic

At the 963rd meeting on 22 July 1961, the representative of the United Kingdom introduced a draft resolution^{426/} jointly sponsored with the United States, under which the Council would call upon the parties to effect an immediate cease-fire and a speedy return of all forces to their previous positions; call upon all concerned to refrain from any action which might lead to a further deterioration of the situation; urge the parties, in accordance with the Charter, to negotiate a peaceful settlement of their differences; and decide to keep the situation under urgent review in the interests of peace and security.

Also at the 963rd meeting, the representative of Liberia introduced a draft resolution^{427/} jointly sponsored with the United Arab Republic, which would have the Council call for an immediate cease-fire;

for the immediate withdrawal of those French forces which had been introduced into the Bizerta base, and for the return to their original position of those which had transgressed beyond the limits of that base since 19 July 1961; and, further, call upon both parties to enter into immediate negotiations aimed at the speedy evacuation of the French forces from Tunisia.

At the same meeting, the Council proceeded to vote upon the draft resolutions before it. The draft resolution sponsored by Liberia and the United Arab Republic was not adopted, the result of the vote being 4 in favour, none against and 7 abstentions.^{428/} The draft resolution sponsored by the United Kingdom and the United States was not adopted, the result of the vote being 6 in favour, none against, and 5 abstentions.^{429/}

The President (Ecuador) noted that, although neither of the draft resolutions before the Council had been adopted, the item was still on the agenda as had been made clear in the interim resolution adopted at the previous meeting. He would call a meeting of the Council at the request of any member of the Council or State Member of the United Nations whenever they might deem it necessary.

Decisions of 29 July 1961 (966th meeting): Rejection of two draft resolutions jointly submitted by Ceylon, Liberia and the United Arab Republic, and of a draft resolution submitted by Turkey

By letter^{430/} dated 27 July 1961 addressed to the President of the Council, the representative of Tunisia stated that France continued to refuse to carry out the provisional measures called for in the Council's interim resolution of 22 July. He accordingly requested that the Council be convened to resume consideration of the "complaint by Tunisia against France concerning acts of aggression infringing the sovereignty and security of Tunisia and threatening international peace and security" submitted by his Government to the Security Council on 20 July 1961.

The Security Council resumed consideration of the question at its 964th to 966th meetings held on 28 and 29 July 1961. The representatives of Libya, Senegal and Tunisia were,^{431/} at their request, invited to participate in the proceedings.

At the 964th meeting on 28 July, the President drew the Council's attention to a letter^{432/} dated 28 July 1961 from the representative of France informing the President that his delegation did not consider it necessary to participate in any discussions on the matter which might take place in the Council.

The representative of Tunisia* stated that his delegation's request that the Council be convened had been necessary by the grave situation resulting from the French military authority's non-observance of the interim decision taken by the Council on 22 July 1961. The Tunisian Government had accepted the

^{422/} 962nd meeting: paras. 2-3. See chapter I, Case 49.

^{423/} S/4880, 962nd meeting: para. 43.

^{424/} 962nd meeting: para. 58.

^{425/} S/4882, O.R., 16th year, Suppl. for July-Sept. 1961, p. 25.

^{426/} S/4879, *ibid.*, p. 23; 963rd meeting: para. 28.

^{427/} S/4878, *ibid.*, pp. 22-23; 963rd meeting: para. 34.

^{428/} 963rd meeting: para. 113.

^{429/} 963rd meeting: para. 114.

^{430/} S/4893, O.R., 16th year, Suppl. for July-Sept. 1961, pp. 33-34.

^{431/} 964th meeting: paras. 4, 5.

^{432/} S/4897, O.R., 16th year, Suppl. for July-Sept. 1961, pp. 40-41; 964th meeting: para. 3.

Council's interim decision and undertaken to implement it in good faith while the French authorities, in contrast, were ignoring it. The French order to cease fire had been given only because the objectives of the aggressor had been achieved and, furthermore, the application of the cease fire had been far from complete. Nor had the French military authorities given effect to the Council's call for the return of all armed forces to their original position. They had instead taken advantage of Tunisian respect for the cease-fire, increased their military potential and violated Tunisian airspace. The representative of Tunisia requested the Council to take into account, in compliance with Article 40 of the Charter, France's refusal to abide by its obligation under the Charter and to act vigorously to enforce the Council's decisions.^{433/}

At the request of the representative of Liberia, the Secretary-General made a statement, informing the Council that, at the invitation of President Bourguiba, he paid a short visit to Tunisia, in the course of which he had had personal contacts with the President and with members of the Tunisian Government. The scope and character of the visit had been clearly defined in the exchange of letters, issued as a Council document,^{434/} in which the aim of the visit was defined by President Bourguiba as a direct and personal exchange of views regarding the developments following the interim resolution of the Security Council of 22 July 1961. The Secretary-General had pointed out in his reply that the question of substance was considered by him as falling outside his personal competence in view of the fact that it was pending before the Council. The acceptance of the invitation extended to him by President Bourguiba fell within the framework of the rights and obligations of the Secretary-General. Article 99 of the Charter authorized him to draw to the Council's attention what, in his view, might represent a threat to international peace and security, and it was obvious that the duties flowing from that authority could not be fulfilled unless the Secretary-General, in case of need, was in a position to acquire a personal opinion about the relevant facts of the situation that might represent such a threat. Without in any way assuming the role of mediator but with a view to getting a better understanding of the difficulties with which efforts to establish a direct contact between the parties had met, he had taken the initiative of expressing to the French Government^{435/} his hope that it would inform him about its views regarding the questions on which he had been informed of the Tunisian viewpoint during his visit. The implementation of the Security Council resolution of 22 July remained so far incomplete. The cease-fire had been established, but that did not seem to have led to an immediate cessation of all acts which, under a cease-fire, should be ruled out. Nor did it mean that the integral demand by the Council for a return of the armed forces to the original position had been met. In view of the need for co-ordination of steps to be taken by the two sides, various efforts, so far unsuccessful, had been made to establish contact between the two parties prior to the full implementation of the

resolution. As stated to the parties, it seemed obvious to him from the resolution and from the general principles of the Charter that the objective of such a contact should be the co-ordination of steps needed for the implementation of the resolution, and that the choice of modalities should take into account the prevailing legal situation. By personal observation he could confirm the fact of the presence, at the time of his visit in the city of Bizerta, and at a fairly considerable distance from Bizerta on the main road to Tunis, of French military units, and that these troops had exercised functions for the maintenance of law and order which normally belonged to organs of the sovereign Government. Furthermore, testimony given in personal contacts appeared to confirm that actions difficult to reconcile with the principle of a cease-fire, involving French military personnel, had occurred. In conclusion, the Secretary-General stated that it was not for him to pass any judgement on the situation, either in terms of what it might involve by way of risks of a breakdown in the cease-fire in case of an incident, or in terms of the resolution, or in terms of international law.^{436/}

At the same meeting the representative of the United Arab Republic submitted a draft resolution^{437/} jointly sponsored with Ceylon and Liberia under which the Council would: (1) express its serious concern over the fact that France had not complied fully with the interim resolution of 22 July, and that the situation continued to represent a serious threat to international peace and security; (2) invite France to comply immediately with all the provisions of the interim resolution.

At the 965th meeting on 29 July 1961, the same three Powers submitted a second draft resolution,^{438/} under which the Council would invite France immediately to enter into negotiations with Tunisia, with a view to the speedy evacuation of French forces from Tunisia.

At the same meeting, the representative of Turkey expressed his belief that the Council's object should be to break the deadlock between the two parties and secure the implementation of the interim resolution of 22 July while at the same time opening the path for a final settlement of the question. His delegation therefore introduced a draft resolution^{439/} according to which the Council would: (1) express its concern that the resolution of 22 July had not been fully carried out; (2) call for immediate and full implementation of that resolution; and (3) urge the early opening of negotiations for a peaceful solution of differences, including a definitive settlement of the question of Bizerta, having due regard for Tunisian sovereignty.

At the 966th meeting on 29 July, the representative of Turkey stated that, having heard certain objections, and in particular the comments of the representative of Tunisia, with regard to paragraph 3 of his draft, he had decided to drop the final paragraph so that a vote might be taken only on operative paragraphs 1 and 2 of his draft resolution.^{440/}

^{433/} 964th meeting: paras. 7-50.

^{434/} S/4885, O.R., 16th year, Suppl. for July-Sept. 1961, p. 26.

^{435/} S/4894 and Add.1, *ibid.*, pp. 34-38.

^{436/} 964th meeting: paras. 85-94. See also chapter I, Case 50.

^{437/} S/4903, C.R., 16th year, Suppl. for July-Sept. 1961, p. 47; 964th meeting: para. 160.

^{438/} S/4904, *ibid.*, p. 47; 965th meeting: para. 14.

^{439/} S/4905, *ibid.*, p. 48; 965th meeting: para. 32.

^{440/} 966th meeting: para. 58.

At the same meeting, the representative of the USSR proposed that in operative paragraph 1 of the Turkish draft resolution, after the words "had not been fully carried out", be added the words "by France", and that, in operative paragraph 2, after the words "implementation of that resolution" be added the words "by France".^{441/}

At the 966th meeting, the Council proceeded to vote on the draft resolutions and the amendment before it. The first draft resolution (S/4903) submitted by Ceylon, Liberia and the United Arab Republic was not adopted, there being 4 votes in favour, none against and 6 abstentions.^{442/} The second draft resolution submitted by Ceylon, Liberia and the United Arab Republic was not adopted, there being 4 votes in favour, none against and 6 abstentions.^{443/} The USSR amendment to the Turkish draft resolution was not adopted, there being 4 votes in favour, none against and 6 abstentions.^{444/} The draft resolution submitted by Turkey was not adopted, there being 6 votes in favour, none against and 4 abstentions.^{445/}

The President (Ecuador) noted that France had not participated in the voting.

The President expressed his concern at the fact that the Council had concluded its discussion without having arrived at a positive resolution. He expressed the hope that the good will of the countries concerned and their understanding of their duties would lead to the full implementation of the only resolution that the Council had been able to adopt on the matter.^{446/}

COMPLAINT BY CUBA (LETTER OF 21 NOVEMBER 1961)

INITIAL PROCEEDINGS

By letter ^{447/} dated 21 November 1961 addressed to the President of the Security Council, the representative of Cuba stated that the United States was carrying out a plan of armed intervention in the Dominican Republic in violation of that country's sovereignty. He asserted that United States warships and aircraft carriers had been dispatched to Santo Domingo waters, from which flights had been launched over Dominican territory with no justification except force and intimidation. Such actions, he added, infringed on the basic principles of the United Nations Charter and those of the Charter of the Organization of American States and were consequently endangering international peace and security. Furthermore, if allowed to go unprotected, they could become a precedent for United States intervention in the internal affairs of other countries of Latin America and thus affect their struggle for self-determination. The request for a meeting of the Security Council was based on Ar-

^{441/} 960th meeting: paras. 59-60, 62.

^{442/} 966th meeting: para. 64. One permanent member did not participate in the voting.

^{443/} 966th meeting: para. 65. One permanent member did not participate in the voting.

^{444/} 966th meeting: para. 66. One permanent member did not participate in the voting.

^{445/} 966th meeting: para. 67. One permanent member did not participate in the voting.

^{446/} 960th meeting: para. 78.

^{447/} S/4992, O.R., 10th year, Suppl. for Oct.-Dec. 1961, pp. 139-141.

ticles 34, 35 (1), 52 (4), 103, 24 (1) and 31 of the Charter, and on the relevant rules of procedure of the Security Council.

At the 980th meeting on 22 November 1961, the Council included the question in its agenda.^{448/} The President (USSR) invited the representatives of Cuba and the Dominican Republic to participate in the debate.^{449/} The Council considered the Cuban complaint at its 980th, 981st and 983rd meetings held on 22, 24 and 28 November 1961.

Decision of 28 November 1961 (983rd meeting): Statement by the President summing up the consensus in the Council

At the 980th meeting on 22 November 1961, the representative of Cuba* asked the Council to condemn the United States as an aggressor, and to demand the immediate withdrawal of U.S. Forces from the coasts of the Dominican Republic.^{450/}

The representative of the United States observed that the charge that the United States was planning armed intervention in the Dominican Republic was totally without foundation, and at no time had the land, sea or air forces of the United States been present in the territorial waters or airspace of the Dominican Republic. The friendly presence of the U.S. fleet on the high seas of the Caribbean was undertaken with the full knowledge of the constitutional authorities of the Dominican Republic, who were struggling to free that nation from years of dictatorship. It was surprising, however, that the accusation of intervention was made not by the Dominican Republic but by Cuba. The real threat to the peace and security of the hemisphere, he asserted, rested with a Government aided by the Communist bloc, which was attempting to frustrate the efforts of the Dominican people to achieve a new and democratic life for their country.^{451/}

At the 981st meeting on 24 November 1961, the representative of the Dominican Republic* expressed regret that Cuba had misused the right granted to Members under Article 35 in a case that fulfilled none of the prerequisites mentioned in Article 34. The Dominican Republic had traditionally been very conscious about its sovereignty, and there was no United States interference in Dominican internal affairs. Instead, full United States respect for that country's sovereignty was manifest. Further, the United States had not violated international law since it had not intruded into the Dominican Republic's territorial waters. The United States patrolled the high seas which was within its rights. The Dominican representative suggested that since Cuba had raised the same complaint before the Organization of American States the Council might abstain from considering it. In so doing, the Council would be respecting Articles 52 to 54 of the United Nations Charter.^{452/}

The President, in summing up the debate at the 983rd meeting on 28 November 1961,^{453/} stated that

^{448/} 980th meeting: preceding para. 1.

^{449/} 980th meeting: paras. 1 and 50.

^{450/} 980th meeting: paras. 4-30.

^{451/} 980th meeting: paras. 31-45.

^{452/} 981st meeting: paras. 3-30, 34-51.

^{453/} 983rd meeting: para. 17^a.

not much could be gained from prolonged discussion at that stage and that if there were no objections he would close the meeting, leaving the matter on the agenda in case further discussion should prove necessary. There was no objection.

COMPLAINT BY PORTUGAL (GOA)

INITIAL PROCEEDINGS

By letter ^{454/} dated 18 December 1961, the permanent representative of Portugal informed the President of the Security Council that the Government of India had followed up its build-up of armed forces and provocation—some of which had been mentioned in his letters to the President of the Council, dated 8,^{455/} 11,^{456/} and 16^{457/} December 1961—with a full-scale unprovoked armed attack on the territories of Goa, Damao and Diu, comprising the Portuguese State of India. The aggression now committed was a flagrant violation of the sovereign rights of Portugal and of the Charter of the United Nations. Consequently, the Government of Portugal requested the President of the Council to convene the Security Council immediately to put an end to India's act of aggression, to order an immediate cease fire and the withdrawal forthwith of all the invading Indian forces from the Portuguese territories of Goa, Damao and Diu. In the meantime and until the Security Council had taken the above-mentioned measures, Portugal had no alternative but to defend itself against aggression.

At the 987th meeting on 18 December 1961, the Security Council decided by 7 votes in favour to 2 against, with 2 abstentions, to include the item in its agenda.^{458/}

The Security Council considered the question at its 987th and 988th meetings on 18 December 1961. The representatives of Portugal and India were invited to take part in the discussion.^{459/}

Decisions of 18 December 1961 (988th meeting):

- (i) Rejection of the joint draft resolution submitted by Ceylon, Liberia and the United Arab Republic;
- (ii) Rejection of the joint draft resolution submitted by France, Turkey, the United Kingdom and the United States

^{454/} S/5030, O.R., 10th year, Suppl. for Oct.-Dec. 1961, pp. 205-206.

^{455/} S/5016, *ibid.*, pp. 151-152. In the letter, Portugal complained of movements of Indian naval units near the territorial waters of Goa and of military forces at the frontiers of Goa, of violations of the airspace of Goa and Diu, and of a campaign of false charges of the Indian radio, Press and other media against Goa and the Portuguese Government. The Government of Portugal considered that it was being made a victim of unprovoked aggression which constituted a grave threat to peace and security.

^{456/} S/5015, *ibid.*, pp. 153-154. In the letter, it was stated that India had continued to accumulate near the Indo-Portuguese frontier considerable military, naval and air forces and that violations of the Portuguese frontier and airspace by Indian armed forces had multiplied. Indian propaganda media had continued to carry on a campaign of accusations. The Portuguese Government, under Article 35 (1), drew the attention of the Security Council to those facts as it considered imminent a military aggression and attack by the Indian Government on Portuguese territory.

^{457/} S/5024, *ibid.*, p. 204. In the letter were listed incidents which took place from 9 to 11 December 1961.

^{458/} 987th meeting: para. 7. On the inclusion of the question in the agenda, see chapter II, Case 6.

^{459/} 987th meeting: para. 9.

At the 987th meeting the representative of India* stated that the Portuguese Government had refused repeated requests of the Government of India to negotiate the transfer of the Portuguese possessions in India and invented a legal fiction that they were part of Portugal. The question before the Council was a colonial question in the sense that part of Indian territory had been illegally occupied by conquest by Portugal. Portugal had no sovereign right over that territory and there was no legal frontier between India and Goa since Goa was an integral part of India. Therefore, a question of aggression could not arise. The only thing the Security Council could do was to tell Portugal to vacate Goa, Damao and Diu, and to give effect to the numerous resolutions of the General Assembly with regard to the freedom of dependent peoples.^{460/}

At the 988th meeting on 18 December 1961, the representative of the United States introduced a joint draft resolution^{461/} co-sponsored by France, Turkey and the United Kingdom, whereby the Security Council would: (1) call for an immediate cessation of hostilities; (2) call upon the Government of India to withdraw its forces immediately to positions prevailing before 17 December 1961; (3) urge the parties to work out a permanent solution of their differences by peaceful means in accordance with the principles embodied in the Charter; and (4) request the Secretary-General to provide such assistance as might be appropriate.

At the same meeting, the representative of Ceylon introduced a joint draft resolution^{462/} co-sponsored by Liberia and the United Arab Republic, according to which the Security Council would: (1) decide to reject the Portuguese complaint of aggression against India; and (2) call upon Portugal to terminate hostile actions and to co-operate with India in the liquidation of her possessions in India.

At the same meeting, the joint draft resolution submitted by Ceylon, Liberia and the United Arab Republic was rejected; there were 4 votes in favour and 7 against.^{463/}

The joint draft resolution submitted by France, Turkey, the United Kingdom and the United States failed of adoption. There were 7 votes in favour and 4 against (one of the negative votes being that of a permanent member).^{464/}

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

THE INDIA-PAKISTAN QUESTION

Decision of 1 February 1962 (990th meeting): Statement by the President

By letter^{465/} dated 11 January 1962, the representative of Pakistan requested a meeting of the Security

^{460/} 987th meeting: paras. 41-43, 45, 60-62.

^{461/} S/5033, 988th meeting: para. 47. For constitutional considerations advanced in connexion with this draft resolution, see chapter X, Case 5, and chapter XII, Case 5.

^{462/} S/5032, 988th meeting: para. 45. For constitutional considerations advanced in connexion with this draft resolution, see chapter XII, Case 5.

^{463/} 988th meeting: para. 128.

^{464/} 988th meeting: para. 129.

^{465/} S/5055, O.R., 17th year, Suppl. for Jan.-March 1962, pp. 46-47.

Council to consider what further action to take in the dispute concerning the State of Jammu and Kashmir in the light of the last report of the United Nations representative for India and Pakistan on 28 March 1958, and subsequent developments. The Government of Pakistan was constrained to make that request as the efforts at the highest level for direct negotiations with the Government of India had failed to open a way towards the settlement of the dispute. Recent pronouncements by responsible personalities in India indicated that the situation constituted a grave threat to the maintenance of peace in the region.

By letter ^{456/} dated 16 January 1962, the representative of India stated that the Security Council should refuse to entertain the request of Pakistan for a meeting. Pakistan's allegations that efforts for direct negotiations had failed, and that a threat to the peace had arisen, were unfounded. As far as the Government of India was concerned, the avenues for direct negotiations were always open. It was Pakistan which threatened the maintenance of peace in the region by its aggressive efforts and instigation of attempts at subversion and sabotage. The eve of the general elections in India was hardly the proper time either for direct negotiations between the two Governments or for discussion of the situation in the Security Council.

By letter ^{467/} dated 29 January 1962, the representative of Pakistan stated that a very grave situation prevailed between India and Pakistan which called for immediate consideration by the Security Council. During recent weeks, responsible leaders of opinion in India had expressed themselves in a manner which had forced Pakistan to the conclusion that there had been a significant reversal of policy on the part of India with reference to the question of Kashmir and the relations between the two countries. India seemed to have decided to repudiate all its obligations, agreements and undertakings in respect of the resolving of the Kashmir dispute. This, in itself, was a development which would affect most seriously the relations between the two Governments. The situation was further exacerbated by the repeated declarations of Indian leaders to the effect that the continued existence of Azad Kashmir constituted "aggression" by Pakistan against India, and that it should be terminated by the "liberation" of the Azad Kashmir territory. It was clear that India's stand on any possible negotiations was limited by the repeated declaration of the Prime Minister of India that he was not willing to negotiate a settlement of the Kashmir dispute itself, but to discuss "adjustments", meaning thereby minor rectifications of the cease-fire line. Therefore, the situation with regard to the maintenance of peace between the two countries was daily becoming more precarious, and Pakistan consequently requested that the Council should take up the consideration of the India-Pakistan question as an urgent matter.

At the 990th meeting on 1 February 1962, the Security Council agreed ^{468/} to include the item in its agenda. The representatives of Pakistan and India

were invited to participate in the discussion. ^{469/} The Council considered the question at the 990th meeting on 1 February 1962, and at the 1007th to 1016th meetings held between 27 April and 22 June 1962.

At the 990th meeting, the representative of Pakistan* reviewed the history of the dispute over the accession of the State of Jammu and Kashmir to Pakistan or to India, and indicated that no progress had been reached towards a peaceful solution of the question, which could only be attained on the basis of the freely expressed wishes of the people of that State. During the past few months, tension between India and Pakistan had mounted to a dangerous degree and declarations by responsible leaders in India had created a sense of crisis in Pakistan, a sense of foreboding that perhaps it might be difficult to maintain peace between the two countries. After quoting from Indian statements to the effect that Pakistan had committed aggression against India and that if that aggression could not be vacated by peaceful means the Azad Kashmir area would have to be "liberated", just as Goa had been liberated, he referred to a statement attributed to the Indian Defence Minister ruling out a plebiscite as a solution for the Kashmir question, and declaring that India would not negotiate on the surrender of its sovereignty. The representative of Pakistan emphasized that there was a serious dispute over the question of the accession to India of the State of Jammu and Kashmir, and that the fundamental problem involved therein was the self-determination of the people of that State and their right to decide their own future freely without interference from one side or the other. Even assuming Pakistan to be in illegal possession of parts of Kashmir, the people of Kashmir would continue to have the right of self-determination. It was sometimes said that because the situation had been more or less stabilized during fifteen years, it should not be disturbed and discussion should only centre on some "adjustments". He wished to assure the Council that even if 150 years were to pass, the dispute would not be settled except through the freely expressed wishes of the people of Kashmir. The Security Council should, therefore, in accordance with its responsibility, take steps to ensure that no recourse should be had to threat or the use of force for the purpose of a settlement of the dispute. Should there be an attempt at a "vacation of aggression or liberation of the Azad Kashmir area" the conflict that then might ensue would be bound to spread, and in view of the geographical situation of Kashmir, if a conflagration started in that area it would not be confined to the sub-continent or even to the whole continent of Asia. ^{470/}

The representative of India* stated that no new facts had emerged in relation to Kashmir since the last meeting of the Security Council in 1957 to merit a reconsideration of the question. It was highly inconvenient for the Government of India to take substantive part in the Council's discussion of the Kashmir problem at a time when India was on the eve of general elections. The Council's consideration of this matter should, therefore, be deferred until a convenient time in the future after the Indian general

^{466/} S/5060 and Corr.1, *ibid.*, pp. 48-49.

^{467/} S/5068, *ibid.*, pp. 57-61.

^{468/} 990th meeting: para. 8.

^{469/} 990th meeting: paras. 9-10.

^{470/} 990th meeting: paras. 13-26, 50-55, 69-87.

elections and the formation of the new Government. He further stated that there was no threat or use of force against Pakistan from India. On numerous occasions the Government of India had offered to enter into a no-war declaration with Pakistan. Thus an atmosphere free from any apprehension would be created in order to facilitate the holding of any negotiations or discussions between India and Pakistan for the settlement of the issue. India's basic policy was to seek all avenues of peaceful settlement in the vacating of the aggression.^{471/} There had been an aggression against India in Kashmir, since Kashmir was an integral part of India. However, this aggression was to be vacated by peaceful means. The Prime Minister of India had repeatedly stated that India was not going to take any military measures in the Kashmir area under Pakistan occupation. There was no desire in the Government of India to settle the differences with Pakistan by any but peaceful means and by negotiations.^{472/}

The President (United States) stated that from the statements made before the Council by the representatives of Pakistan and India it was apparent that they desired to deal with their differences on the Kashmir issue in a peaceful manner. In the light of those assurances, and of the comments made before the Council, any further consideration by the Council should be deferred, possibly until some time after 1 March, on the understanding that it would be resumed after consultation between members of the Council and the parties concerned. Meanwhile, he concluded, the parties should refrain from any use or threat of the use of force in connexion with this problem, and from any action which might increase existing tensions.^{473/}

Decision of 22 June 1962 (1016th meeting): Rejection of the draft resolution submitted by Ireland

The Security Council resumed its consideration of the question at its 1007th meeting on 21 April 1962. The opening statement by the representative of Pakistan was made at the 1007th and 1008th meetings, and the opening statement by the representative of India at the 1009th meeting. Discussion continued through the 1016th meeting.

At the 1016th meeting on 22 June 1962, the representative of Ireland introduced a draft resolution^{474/} under which, after noting with satisfaction the pledges made by the two parties to the effect that their Governments would not resort to force in settling this question, the Security Council would: (1) remind both parties of the principles contained in its resolution of 17 January 1948, and in the United Nations Commission for India and Pakistan (UNCIP) resolutions of 13 August 1948 and 5 January 1949; (2) urge the parties concerned to enter into negotiations at the earliest convenient time with a view to the ultimate settlement of the India-Pakistan question, in accordance with Article 33 and other relevant provisions of the Charter; (3) appeal to the two Governments to

take all possible measures to ensure the creation and maintenance of an atmosphere favourable to the promotion of negotiations; (4) urge the two Governments to refrain from making any statements, or taking any action, which might aggravate the situation; and (5) request the Secretary-General to provide the two Governments with such services as they might request for the purpose of carrying out the terms of this resolution.

At the same meeting, the Irish draft resolution failed of adoption. There were 7 votes in favour and 2 against, with 2 abstentions (one of the negative votes being that of a permanent member).^{475/}

LETTER OF 8 MARCH 1962 FROM THE REPRESENTATIVE OF CUBA CONCERNING THE PUNTA DEL ESTE DECISIONS

INITIAL PROCEEDINGS

By letter^{476/} dated 8 March 1962 addressed to the President of the Security Council, the representative of Cuba complained that certain resolutions adopted at the Eighth Meeting of Consultation of Ministers of Foreign Affairs of the American Republics, held at Punta del Este, violated the Charter of the United Nations, and that subsequently "unlawful enforcement action" had been taken against Cuba without the requisite authorization of the Security Council under Article 53 of the Charter. These coercive measures constituted aggression against the sovereignty of Cuba and were a serious threat to international peace and security. Accordingly, the Cuban Government asked for an immediate meeting of the Security Council to request the International Court of Justice to give an advisory opinion on several specific legal questions related to the decisions taken by the Eighth Meeting of Consultation of Ministers of Foreign Affairs. It further requested the Council to call, as a provisional measure under Article 40 of the Charter, for the suspension by the Council of the Organization of American States of the agreements adopted at Punta del Este. The Cuban request was based on Article 65 of the Statute of the International Court of Justice and Articles 24 (1), 34, 35 (1), 40, 41, 52, 53, 96 and 103 of the Charter, and the relevant provisions of the rules of procedure of the Council.

At the 992nd meeting on 14 March 1962, the Council included the question in its agenda.^{477/} It considered the Cuban complaint at the 992nd to 998th meetings held between 14 and 23 March 1962. The President (Venezuela) invited the representative of Cuba to participate in the discussion.^{478/}

Decision of 23 March 1962 (998th meeting): Rejection of the Cuban draft resolution

At the 992nd meeting on 14 March 1962, the representative of Cuba* contended that the Eighth Meeting of Consultation of Punta del Este had been illegally convened, and that it had adopted collective enforcement measures which could not be implemented with-

^{471/} See chapter X, Case 6.

^{472/} 990th meeting: paras. 83-87, 93-98, 102-111.

^{473/} 990th meeting: paras. 113-115.

^{474/} S/5134, O.R., 17th year, Suppl. for April-June 1962, p. 104; 1016th meeting: paras. 3-10.

^{475/} 1016th meeting: para. 42.

^{476/} S/5086, O.R., 17th year, Suppl. for Jan.-March 1962, pp. 88-90.

^{477/} 992nd meeting: para. 3.

^{478/} 992nd meeting: para. 4.

out the approval of the Security Council.^{479/} He asserted that under the United Nations Charter, socialist and capitalist nations were united, thus proclaiming peaceful co-existence. The United Nations was the international forum where countries with different social and political systems met. He stated further that the social system of a State was a matter essentially within its domestic jurisdiction, and that under Article 2 (7) of the Charter not even the United Nations was authorized to intervene in matters which were essentially within the domestic jurisdiction of any State. He concluded by requesting that, pending the opinion of the International Court, the Council should resolve to suspend the decisions of Punta del Este.^{480/}

At the 993rd meeting on 15 March 1962, the representative of the USSR observed that there were well-founded legal reasons for the Security Council to take the matter before the International Court because serious differences had appeared at the previous meetings of the Council and the General Assembly in the views expressed about these legal questions.^{481/}

At the same meeting the representative of the United States observed that it was the third time in two and a half months that the United Nations had been called upon to discuss complaints by Cuba which were essentially alike. He contended that the only difference in the current complaint was that its objective was to extend the Soviet veto to all regional organizations by way of the Security Council. He noted further that while the Cuban complaint might have been formulated in juridical terms, it was actually political. In his view, the principal issue was

"whether a regional organization, one which has co-operated fully with the United Nations, has the right to manage its own affairs and to defend itself against a foreign-dominated Government, or whether the Soviet Union is to be allowed to paralyse that organization's activities through the exercise of the veto power in this Council."

With regard to the Cuban contention that the resolutions adopted at Punta del Este were "enforcement action" and constituted aggression against Cuba, the United States representative, after analysing in detail the resolutions, asserted that they did not constitute aggression or violated the Charter and did not require Security Council approval, or interpretation by the International Court.^{482/}

At the 994th meeting on 16 March 1962, the representative of Chile observed that a request for an advisory opinion of the International Court implied a kind of disapproval of the Punta del Este decisions and denial of authority to the competent organs that produced these decisions. He noted, further, that coercive measures within the meaning of Article 53 of the Charter involved the use of armed force. Consequently, the measures decided upon at Punta del Este could not be said to constitute enforcement action.^{483/}

At the 995th meeting on 20 March 1962, the President (Venezuela)^{484/} called attention to a letter dated 19 March 1962 from the representative of Cuba transmitting a draft resolution,^{485/} submitted in accordance with rule 38 of the rules of procedure. Under the terms of the draft resolution, the Security Council would request the International Court of Justice to give an advisory opinion on the seven following questions:

- (i) Whether the Organization of American States was a regional agency within the meaning of Chapter VIII of the United Nations Charter;
- (ii) Whether, under the terms of the Charter, the OAS had the right to take enforcement action as provided for in Article 53 without the authorization of the Security Council;
- (iii) Whether the term "enforcement action" in Article 53 was to be regarded as including the measures provided for in Article 41, and whether the list of measures in Article 41 was exhaustive;
- (iv) Whether the Charter of the OAS included any procedure for the expulsion of a State member of that organization, particularly because of its social system;
- (v) Whether the provisions of the Charter of the OAS and of the Inter-American Treaty of Reciprocal Assistance (Rio Treaty) were to be regarded as having precedence over the obligations of Member States under the United Nations Charter;
- (vi) Whether it was one of the main principles of the Charter of the United Nations that membership in the Organization was open to States which complied with the requirements of Article 4, regardless of their social system;
- (vii) Whether, in the light of the replies to the foregoing questions, the resolutions adopted by the Eighth Meeting of Consultation regarding the expulsion of a State member of the regional agency because of its social system, and the adoption of other enforcement action against that State without the authorization of the Security Council, were or were not in accordance with the provisions of the Charter of the United Nations, the Charter of the OAS, and the Rio Treaty.

At the 996th meeting on 21 March 1962, the representative of the United Arab Republic recalled that requests for advisory opinions had been made in the past, and cited two cases, in 1947 and 1948, when they had been rejected on the grounds that the Council seemed more interested in the political rather than the juridical aspects of the questions raised.^{486/}

At the 998th meeting on 23 March 1962, the representative of the USSR requested, in accordance with rule 38 of the rules of procedure,^{487/} that the Cuban draft resolution be put to the vote.^{488/}

^{479/} See chapter XII, Case 27.

^{480/} 992nd meeting: paras. 9-12, 77, 108, 118.

^{481/} 993rd meeting: paras. 49-52.

^{482/} 993rd meeting: paras. 72-74, 78-125.

^{483/} 994th meeting: paras. 46, 65-64, 72.

^{484/} 995th meeting: para. 3.

^{485/} S/5095, O.R., 17th year, Suppl. for Jan.-March 1962, pp. 96-97. The draft resolution included the same seven questions which were raised in the Cuban letter of submission (S/5086).

^{486/} 996th meeting: para. 42.

^{487/} See chapter III, Case 16.

^{488/} 998th meeting: para. 3.

The representative of Ghana requested that a separate vote be taken on the operative paragraph of the Cuban draft resolution which referred to the third above-mentioned question.^{489/}

The President (Venezuela) stated that, in view of the fact that it was the USSR which had asked that the draft resolution be put to the vote, he would inquire whether the representative of the USSR had any objection to the separate vote requested by the representative of Ghana.^{490/} After a discussion on whether the representative of Cuba might be heard at that stage and an expression of view by the President, the President, as an exception, called on the representative of Cuba.^{491/} The representative of Cuba merely stated that he had no objection to Ghana's request.^{492/}

The Ghanaian proposal was rejected; there were 4 votes in favour and 7 against.^{493/}

The representative of Cuba stated then that as a result of the vote just taken he would not press for a vote on his draft resolution.^{494/}

The representative of the United States objected to the proposed withdrawal, to avoid a vote on the draft resolution as a whole. Under rule 35, since a vote had been taken in respect of the draft resolution, it could no longer be withdrawn.^{495/}

The President ruled that, under rule 35, the remaining part of the draft resolution would have to be voted upon.^{496/} This ruling was challenged by the representative of the USSR,^{497/} and was upheld by 7 votes in favour to 2 against, with 2 abstentions.^{498/}

The draft resolution, as amended, was rejected by 2 votes in favour and 7 against, with 1 abstention.^{499/}

COMPLAINTS BY REPRESENTATIVES OF CUBA, USSR AND UNITED STATES (22-23 OCTOBER 1962)

INITIAL PROCEEDINGS

By letter ^{500/} dated 22 October 1962, the representative of the United States requested an urgent meeting of the Security Council to "deal with the dangerous threat to the peace and security of the world caused by the secret establishment in Cuba by the Union of Soviet Socialist Republics of launching bases and the installation of long-range ballistic missiles capable of carrying thermonuclear warheads to most of North and South America". The letter stated that the United States had "incontrovertible evidence" that the USSR had been installing in Cuba a whole series of facilities for launching nuclear missiles and other offensive

^{489/} 998th meeting; paras. 78, 81.

^{490/} 998th meeting; paras. 84-87.

^{491/} 998th meeting; paras. 88-109. For procedural discussion on this matter, see chapter III, Case 16.

^{492/} 998th meeting; para. 110.

^{493/} 998th meeting; para. 113.

^{494/} 998th meeting; para. 123.

^{495/} 998th meeting; paras. 124-125.

^{496/} 998th meeting; paras. 142, 144-145.

^{497/} 998th meeting; paras. 147, 149.

^{498/} 998th meeting; para. 150.

^{499/} 998th meeting; para. 158. The representative of Ghana did not participate in the vote.

^{500/} S/5151, O.R., 17th year, Suppl. for Oct.-Dec. 1962, pp. 146-147.

weapons and installing the weapons themselves. These steps were far in excess of Cuba's defence requirements and had been undertaken some months ago despite repeated assurances, both in public and private, that no offensive weapons were being delivered to Cuba. In the light of this threat, the United States had appealed to the Organization of American States calling for a meeting of the Organ of Consultation invoking articles 6 and 8 of the Inter-American Treaty of Reciprocal Assistance (Rio Treaty) and had initiated a strict quarantine of Cuba to interdict the carriage of offensive weapons to that country. In accordance with its obligation under the Charter of the United Nations and the Council's responsibility for the maintenance of international peace and security, the United States was bringing these facts to the attention of the Council in order that prompt and effective measures might be taken for the immediate dismantling and withdrawal of Soviet offensive weapons from Cuba under the supervision of United Nations observers. Upon fulfilment of these conditions, the quarantine would be lifted. The letter was accompanied by a draft resolution^{501/} under which the Security Council would call, as a provisional measure under Article 40 of the Charter, for immediate dismantling and withdrawal of all missiles and other offensive weapons from Cuba and would authorize and request the Secretary-General to dispatch to Cuba a United Nations observer corps to assure and report on compliance. The draft resolution also recommended that the United States and the USSR confer promptly on measures to remove the existing threat to the security of the Western Hemisphere and the peace of the world, and report thereon to the Security Council.^{502/}

By letter ^{503/} dated 22 October 1962, the representative of Cuba requested an urgent meeting of the Security Council to consider "the act of war unilaterally committed by the Government of the United States in ordering the naval blockade of Cuba". The letter stated that the United States, in disregard of the international organizations including the Security Council, was creating an imminent danger of war. This unilateral and direct aggression committed against the Revolutionary Government and the people of Cuba was merely the culmination of a series of aggressive acts which had been reported to and denounced before the United Nations. The request for the meeting was based on Articles 34, 35 (1), 39, 1 (1), 2 (4) and 24 (1) of the Charter and the relevant articles of the rules of procedure of the Council.

By letter ^{504/} dated 23 October 1962, the representative of the USSR requested an immediate meeting of the Security Council to examine the question of "the violation of the Charter of the United Nations and the threat to peace" on the part of the United States. In a statement accompanying the letter, the Government of the USSR noted the United States decree which, it stated, had, in effect, placed the Republic of Cuba under a naval blockade. At the same time, United States troops had been reinforced at the Guantanamo base, situated in Cuban territory, and United States armed forces were being placed in a state of combat readi-

^{501/} S/5152, 1022nd meeting; para. 80.

^{502/} See chapter X, Case 7.

^{503/} S/5183, O.R., 17th year, Suppl. for Oct.-Dec. 1962, p. 148.

^{504/} S/5186, *ibid.*, pp. 149-154.

ness. The Soviet Government had called attention to the serious danger to world peace created by the policy pursued by the United States towards Cuba. The statement questioned the authority assumed by the United States as arbiter of the destinies of other territories and peoples, and referred to the fact that under the Charter of the United Nations all countries, large or small, had the right to organize themselves as they saw fit and to take such measures as they considered necessary to protect their own security. It was further stated that USSR's assistance to Cuba was designed to improve that country's defensive capacity, in response to the continuous threats and provocations by the United States. If the United States were genuinely striving for peace it would accept the Soviet proposal to withdraw its troops and dismantle its military bases in various parts of the world. The USSR Government appealed to all Governments and peoples to protest against the aggressive acts of the United States against Cuba and other States, strongly to condemn such acts and to take steps to prevent the unleashing of a thermonuclear war by the United States.

At the 1022nd meeting on 23 October 1962, the provisional agenda of the Council included the three letters. After the adoption of the agenda,^{505/} the President (USSR) invited,^{506/} without objection, the representative of Cuba to participate in the discussion. He then proposed that the three letters be considered simultaneously. It was so decided.^{507/} The Council considered the question at its 1022nd to 1025th meetings from 23 to 25 October 1962.

Decision of 25 October 1962 (1025th meeting): Adjournment, pending outcome of discussions and negotiations initiated with the assistance of the Acting Secretary-General

At the 1022nd meeting on 23 October 1962, the representative of the United States stated that he had asked for an emergency meeting to bring to the attention of the Council a grave threat to the Western Hemisphere and to the peace of the world. After reading to the Council a report by the President of the United States, broadcast the day before, on "the recent alarming military developments in Cuba", he reiterated the United States assertion that unmistakable evidence had established the fact that a series of offensive missile sites were being prepared in Cuban territory, and that the purpose of these bases was to provide a nuclear strike capability against the Western Hemisphere. Cuba had thus given to the USSR a bridgehead and staging area in this hemisphere. He contended further that missiles which helped a country to defend its independence, which left its political institutions intact, which were not designed to subvert the territorial integrity or political independence of other States, and were installed without concealment or deceit, was a type of assistance consistent with the principles of the United Nations. However, missiles which introduced a nuclear threat to an area heretofore free of it, which were installed by clandestine means, and which resulted in the most formidable

nuclear base in the world outside existing treaty systems, presented a different problem. Despite repeated claims that Soviet arms in Cuba were solely of a "defensive character", the fact remained that the USSR had upset the precarious balance and created a new and dangerous situation in a new area. Cuba was being transformed into a base for "communist aggression" and "for putting all of the Americas under the nuclear gun". The United States could not accept that new phase of aggression without being negligent in its obligations to world peace. To accept that basic disturbance of the world's structure of power would simply be to extend an invitation to a new surge of aggression. In conclusion, the United States representative informed the Council of a decision^{508/} of the Organization of American States calling for the dismantling and withdrawal of all missiles and other offensive weapons from Cuba.^{509/}

At the same meeting, the representative of Cuba* repeated earlier assertions that the weapons were purely defensive and that were the United States to give proof by word and deed that it would not carry out aggression against Cuba, then Cuba's weapons would be unnecessary. However, United States conduct had not fulfilled such expectations. There were frequent acts of sabotage, violations of the territorial waters and airspace, and other provocative and punitive measures which made Cuba's defence vital. The United States had no right to attack another Member State because of its social system. The Charter, which had been signed by States with different social systems, imposed peaceful negotiations on States in the settlement of their disputes. Cuba, for its part, had always been ready to carry out peaceful negotiations with the United States but the latter would rather set might above right. The United States had adopted warlike measures in complete disregard of international organizations, particularly the Security Council. The Cuban representative invoked Article 2 (4) of the Charter and appealed for immediate withdrawal of all ships, troops and planes around Cuba, and the cessation of provocative acts by agents of the United States Government.^{510/}

At the same meeting, the President, speaking as the representative of the USSR, reiterated his assurances that the armaments and military matériel sent to Cuba were only for defensive purposes, and stated that, in initiating a naval blockade against Cuba, the United States had taken a step unprecedented in relations between States not formally at war. That, he said, had created a threat to the peace and a direct challenge to the Security Council as the organ of the United Nations primarily responsible for the maintenance of international peace and security. The Council alone was empowered to carry out any enforcement measures. By throwing its armed forces into the area around Cuba and into Cuban territory, the United States was committing an act of overt aggression. It had openly violated the Charter, which prohibited the threat or use of force in international relations. The United States, by declaring its intention

^{505/} 1022nd meeting: para. 8.

^{506/} 1022nd meeting: para. 9.

^{507/} 1022nd meeting: para. 11.

^{508/} 1022nd meeting: para. 81.

^{509/} 1022nd meeting: paras. 12-14, 58-63, 70-79.

^{510/} 1022nd meeting: paras. 90-93, 107-110, 122-125.

to inspect ships on the high seas, was committing an act of piracy, which led to an intensification of the tension in the international situation, and constituted a step towards the provoking of a world thermonuclear war. The United States had no right to make the demands enunciated by its President concerning shipping, both from the point of view of international law or from the Charter. No State, however powerful, had any right at all to define or determine what form of armaments might be required by another State for its defence. Each State, according to the Charter, had a right of self-defence and the right to the weapons necessary to serve that defence. Thus, the position set out by the United States flagrantly violated international law, which recognized the sovereign equality of all States, and obliged States to base their relations on this principle.^{511/}

In conclusion, the representative of the USSR introduced a draft resolution,^{512/} under which the Security Council would, *inter alia*, condemn the actions of the United States Government, aimed at violating the Charter and increasing the threat of war; insist on the revocation of the order to inspect ships of other States bound for Cuba; and call upon the Governments of Cuba, the United States and the USSR to establish contact and enter into negotiations for the purpose of normalizing the situation and thus removing the threat of war.

At the 1024th meeting on 24 October 1962, the representative of Chile suggested that if the United States resolution were not adopted, the Acting Secretary-General should nominate a commission that would go immediately to Cuba. Should an impasse develop in the Council as a result of the outcome of the vote on the draft resolutions before the Council, he suggested that the Acting Secretary-General should take some initiative and propose measures that might be immediately effective.^{513/}

At the same meeting, the representative of the United Arab Republic stated that the representatives of some fifty Member States, fearful of an armed clash and desirous of finding a peaceful solution, after long deliberations had delegated from among themselves the representatives of Ghana, Cyprus and the United Arab Republic to meet with the Acting Secretary-General in order to convey to him on their behalf their deep concern and anxiety. The United Arab Republic representative then suggested that the Council should concentrate its effort to achieve, among other objectives prescribed in the Charter, the use, by the parties concerned, of whatever assistance the Acting Secretary-General and his office might be able to render in bringing the matter to a peaceful and immediate solution.^{514/}

The representative of Ghana introduced a draft resolution,^{515/} jointly sponsored with the United Arab Republic, under which the Security Council would request the Acting Secretary-General promptly to confer with the parties directly concerned on immediate steps to

remove the threat to world peace and call on the parties to comply with the resolution and assist the Acting Secretary-General in performing his task, and to refrain from any action which might further aggravate the situation.

At the same meeting, the Acting Secretary-General stated that at the request of the permanent representatives of a large number of Member States he had sent identical messages to the Governments of the United States and of the USSR, calling upon them to refrain from any action that might aggravate the situation and bring forth the risk of war. A part of the message read as follows:

"... it is important that time should be given to enable the parties concerned to get together with a view to resolving the present crisis peacefully and normalizing the situation in the Caribbean. This involves on the one hand the voluntary suspension of all arms shipments to Cuba, and also the voluntary suspension of the quarantine measures involving the searching of ships bound for Cuba. I believe that such voluntary suspension for a period of two to three weeks will greatly ease the situation and give time to the parties concerned to meet and discuss with a view to finding a peaceful solution of the problem. In this context, I shall gladly make myself available to all parties for whatever services I may be able to perform."

The Acting Secretary-General also appealed to the Government of Cuba to suspend construction of major military facilities during the period of negotiation. He further repeated his appeal to the parties concerned to enter into negotiations at once, and offered to make himself and his office available to all parties.^{516/}

At the 1025th meeting on 25 October 1962, the representative of the United States called attention to the reply by the President of the United States to the appeal of the Acting Secretary-General, in which the President expressed a willingness to begin preliminary talks to determine whether satisfactory arrangements could be assured. The United States asserted its desire to reach a satisfactory and a peaceful solution of the matter.^{517/}

Speaking as the representative of the USSR, the President referred to a letter of 24 October from the USSR Government to Bertrand Russell wherein the Soviet attitude toward the crisis was outlined. In the view of the USSR Government, the question of war and peace was so vital that a meeting on the highest level would be useful in order to discuss the problems that had arisen, and to do everything to remove the danger of unleashing a thermonuclear war. The USSR representative referred also to his Government's reply to the Acting Secretary-General, welcoming his initiative and expressing agreement with his proposal.^{518/}

The representative of Ghana expressed appreciation of the Acting Secretary-General's initiative and the kinds of response his appeals had elicited, and sup-

^{511/} 1022nd meeting: paras. 129-184.

^{512/} S/5187, 1022nd meeting: para. 180.

^{513/} 1024th meeting: paras. 26-59.

^{514/} 1024th meeting: paras. 62-82.

^{515/} S/5190, 1024th meeting: para. 113.

^{516/} 1024th meeting: paras. 116-126. See also chapter I, Case 51.

^{517/} 1025th meeting: paras. 2-23.

^{518/} 1025th meeting: paras. 25-44.

ported a proposal by the United Arab Republic^{519/} for adjournment.^{520/}

The proposal was adopted without objection, and the meeting was adjourned after a statement by the President that, in the light of the results of the discussions which were to take place, he would decide on the future work of the Council on the subject.^{521/}

COMPLAINT BY SENEGAL

INITIAL PROCEEDINGS

By letter^{522/} dated 10 April 1963 to the President of the Security Council, the representative of Senegal requested that "in view of the repeated violations of Senegalese airspace and territory that have taken place", a meeting of the Council should be called to discuss the matter. In the letter it was asserted that on 9 April^{523/} four Portuguese aircraft had violated Senegalese airspace and dropped four grenades on the village of Bouniak. It was also recalled that on 22 December 1961 the Government of Senegal had drawn the attention of the President of the Council to several earlier violations which had taken place on the border between Senegal and "so-called" Portuguese Guinea. The recurrence of such acts had therefore determined the Government of Senegal to appeal to the Security Council.

By letter^{524/} dated 10 April 1963 to the President of the Security Council, the Permanent Representative of Portugal stated that the report by Senegal was "without the slightest foundation" and that "on the day in question, no Portuguese military aircraft flew over that area or any other area along the border with Senegal". Furthermore, all Portuguese forces had "the strictest orders to scrupulously respect the sovereignty, the territorial integrity and the airspace of the Republic of Senegal". The complaints presented by Senegal in 1961, he contended, "either were totally unfounded or originated from a misconstruction of events without any real significance". It was regretted that "old complaints" should have been joined "to a new entirely unfounded allegation in order to create an atmosphere of hostility against Portugal" in spite of "the constant endeavours of the Portuguese Government to adhere to a firm policy of international co-operation and good neighbourliness". The convening of the Security Council, the letter concluded, "would be entirely unwarranted".

^{519/} 1025th meeting: para. 74.

^{520/} 1025th meeting: paras. 91-94.

^{521/} 1025th meeting: para. 102. In a letter dated 7 January 1963 (S/5227, O.R., 18th year, Suppl. for Jan.-March 1963, p. 85) jointly addressed to the Secretary-General on behalf of their Governments by the representatives of the USSR and the United States, they expressed appreciation to the Secretary-General for his assistance to both Governments in averting a serious threat to world peace and noted that: "in view of the degree of understanding reached between them on the settlement of the crisis and the extent of progress on the implementation of this understanding, it is not necessary for this item to occupy further the attention of the Security Council at this time."

^{522/} S/5279, O.R., 18th year, Suppl. for April-June 1963, pp. 16-17.

^{523/} On 16 April this date was corrected to read 8 April (S/5279/Corr.1).

^{524/} S/5281, *ibid.*, pp. 24-25.

At the 1027th meeting on 17 April 1963, the Council included the item in its agenda.^{525/} The question was considered by the Council at the 1027th to 1033rd meetings held between 17 and 24 April 1963. At the 1027th meeting on 17 April 1963, the representatives of Senegal and Portugal,^{526/} and at the 1028th meeting - on 18 April 1963, the representatives of the Congo (Brazzaville) and Gabon^{527/} were invited to participate in the discussion.

Decision of 24 April 1963 (1033rd meeting): Deploring any incursion by Portuguese military forces in Senegalese territory, and requesting the Government of Portugal to take action to prevent any violation of Senegal's sovereignty and territorial integrity

In his initial statement before the Council, the representative of Senegal* complained that in December 1961 there had been serious incidents along the border between Senegal and "so-called" Portuguese Guinea. Senegal had at that time requested the Security Council to consider these incidents. Senegal had then been persuaded to seek a direct arrangement with Portugal instead of insisting on the initiation of Council proceedings. Two years later, however, the occurrence of even graver incidents "despite the solemn undertakings made by the Portuguese Government at that time" had forced Senegal to appear before the Council. As to the latest incidents, on 8 April, the Senegalese village of Bouniak had been bombed by four aircraft of the Portuguese colonial army. There was also much tension on the border area between the populations residing on both sides, resulting from a systematic division of the border population by the Portuguese authorities, who were massacring and terrorizing the Diolas, who were Africans of Portuguese nationality. In addition to these elements causing tension, there was a network of espionage on Senegal's territory which was operated by the Portuguese. He denied Portuguese charges that Senegal had annexationist aims against Portuguese Guinea and asserted that in questions of decolonization Senegal supported the principle of self-determination and national independence for all dependent peoples. These border incidents were creating "a very tense" and "storm-charged" atmosphere which might explode in an armed conflict, which would be "a real threat to international peace and security", since Senegal had military agreements with other nations in Africa and elsewhere. The Security Council should solemnly condemn Portuguese incursions into Senegalese territory and the aggressions being perpetrated by Portugal against its villages. Later, at the same meeting, in support of his complaint, the representative of Senegal displayed before the Council metal fragments which, he contended, had come from rockets fired by Portuguese planes flying over Senegalese territory.^{528/} Together with the pieces of rockets and bullets found on the ground, he submitted as documentary evidence a report of experts.^{529/}

At the 1028th meeting on 18 April, the representative of Senegal asserted that no negotiation with

^{525/} 1027th meeting: para. 46.

^{526/} 1027th meeting: para. 47.

^{527/} 1028th meeting: para. 26.

^{528/} 1027th meeting: paras. 48-62, 113-117.

^{529/} S/5287, O.R., 18th year, Suppl. for April-June 1963, pp. 26-27.

Portugal was possible. He wondered what use there was in entering into contact with a Government that had made it a principle to deny all its errors. At the root of the problem was Portugal's African policy of racial discrimination which Senegal, like practically all the African States and the progressive forces of the world, condemned. Members of the Council knew only too well the policy of Portugal and realized therefore the impossibility of any negotiations or resort to mediation. Senegal thus was left no alternative but to turn to the Security Council. The Council could do no greater service to Portugal than to make it aware of how far astray it had gone, and to make it realize the context of General Assembly resolution 1514 (XV), on the granting of independence to colonial countries and peoples.^{530/}

At the 1027th meeting on 17 April and the 1030th meeting on 19 April 1963, the representative of Portugal* stated in reply that consideration by the Council of the complaint by Senegal was both "irregular and premature, in terms of the Charter". Senegal's request for a meeting had obviously been made under the provisions of Chapter VI. Article 33 of the Charter provided that the parties to a dispute should first of all seek a solution by negotiation, inquiry or other peaceful means. Only after these steps had been attempted and proved to have failed should an approach be made to the Security Council. Senegal, however, had not even tried any of the methods indicated in Article 33, and had at once asked that the Council be convened.^{531/} True to its traditional policy of friendship and co-operation, the Portuguese Government never refused to discuss or negotiate on any disputes arising from border incidents. The events of 1961 on the Senegal-Portuguese border had been without any real significance and had originated in mistaken or unintentional acts. They had then been brought by Senegal to the notice of the President of the Council, and had been fully analysed and dealt with in the letter of 9 January 1962^{532/} of the Portuguese representative to the President of the Security Council. The contents of that letter had not been the subject of any comment by the Government of Senegal, either at that time or at any time thereafter.

With regard to the Senegalese allegation of an incident on 9 April 1963, he asserted that it was "absolutely devoid of truth". A careful inquiry ordered by the Portuguese Government had found that no Portuguese military aircraft based in the Province of Guinea had taken to the air on that day, and therefore no such aircraft could have overflown the village of Bouniak or any other area along the border with Senegal. Noting also that Senegal had later declared that the alleged incident had taken place not on 9 April but on 8 April,^{533/} he wondered why the Government of Senegal had waited seven days to correct an error on such an important point as the date of the occurrence. The facts, as verified by the Portuguese Government, were that on 9 April no military planes had taken to the air in the Province of Guinea. On 8 April, however, there had been

"some routine small-scale military exercises in which air and land forces participated", but no bombs or grenades had been used by the planes, and all operations had taken place strictly within Portuguese territory. There was, therefore, no ground for complaint. As for the pieces of rocket that were supposed to have been found in Bouniak and said to have come from the alleged bombings by four Portuguese planes, what was there to prove that they had actually been dropped from Portuguese aircraft at the place and on the day in question? After dismissing other Senegalese allegations and the charge that agents of Portuguese police operated in Senegal, he stated that there were positive grounds for the belief of his Government that the roots of the hostility of the Government of Senegal were outside that country. The evidence submitted in the Council proceedings was "hearsay evidence of a very questionable nature". There was absolutely no tension on the borders between Portuguese Guinea and Senegal and the populations, at least on the Portuguese side of it, lived in peace except on those occasions when, in pursuance of avowed anti-Portuguese policies, agitators with subversive purposes infiltrated in the dead of the night, alleging that they were nationalists from Portuguese Guinea. There was a "grand anti-Portuguese conspiracy on the international plane" to which the current attempt by a neighbouring African State to bring Portugal into disrepute was clearly connected. The norms of good neighbourliness had been repeatedly violated by Senegal in its conduct towards Portugal, and subversive anti-Portuguese propaganda had been broadcast daily by the Senegalese radio in Dakar. Nevertheless, Portugal would always be willing to co-operate with Senegal in matters of common interest, with the aim of reaching solutions acceptable to both sides. In accordance with this policy, Portugal suggested that a small commission be appointed with the mutual consent of Senegal and Portugal to make an on-the-spot investigation of the substance of the current Senegalese complaint. The commission should be composed of competent technicians to be named in equal numbers by each party and presided over by a neutral acceptable to both sides.^{534/}

At the 1031st meeting on 22 April 1963, after denying the Portuguese charges, the representative of Senegal rejected the proposal to set up a commission of investigation. This, he asserted, was a delaying tactic and its obvious aim was to prevent the Security Council from taking a just and efficient decision.^{535/}

At the 1032nd meeting on 25 April 1963, the representative of Ghana introduced a draft resolution^{536/} jointly sponsored with Morocco.

At the 1033rd meeting on 24 April 1963, the joint draft resolution was adopted unanimously.^{537/}

The resolution^{538/} read:

"The Security Council,

^{530/} 1023th meeting: paras. 34-60.

^{531/} For discussion concerning Article 33, see chapter X, Case 8.

^{532/} S/5055, O.R., 17th year, Suppl. for Jan.-March 1962, pp. 44-45.

^{533/} See S/5279/Corr.1.

^{534/} 1027th meeting: paras. 63-112, 115; 1030th meeting: paras. 3-57.

^{535/} 1031st meeting: paras. 3-15.

^{536/} S/5292, 1032nd meeting: para. 25.

^{537/} 1033rd meeting: para. 134.

^{538/} S/5293, O.R., 18th year, Suppl. for April-June 1963, pp. 30-31.

"Having heard the statements of the representatives of Senegal and Portugal concerning violations of Senegalese territory by the Portuguese military forces,

"Deploring the incidents that have occurred near the frontier between Senegal and Portuguese Guinea,

"Noting with concern that the state of relations in this area between the two parties concerned may lead to tension on the occasion of any incident, and expressing the hope that such tension will be eliminated in accordance with the provisions of the Charter of the United Nations,

"Taking note of the declared intention of the Portuguese Government scrupulously to respect the sovereignty and territorial integrity of Senegal.

"1. Deplores any incursion by Portuguese military forces into Senegalese territory as well as the incident which occurred at Bouniak on 8 April 1963;

"2. Requests the Government of Portugal, in accordance with its declared intentions, to take whatever action may be necessary to prevent any violation of Senegal's sovereignty and territorial integrity;

"3. Requests the Secretary-General to keep the development of the situation under review."

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

COMPLAINT BY HAITI

INITIAL PROCEEDINGS

By a telegram^{539/} dated 5 May 1963 the Minister for Foreign Affairs of the Republic of Haiti requested the President of the Security Council, in accordance with Articles 35 (1) and 34 of the Charter, to convene an urgent meeting of the Council in order to consider the situation "caused by the repeated threats of aggression and attempts at interference made by the Dominican Republic", which were "infringements of Haiti's sovereignty and territorial integrity" and constituted a danger to international peace and security. The Council also had before it a note verbale^{540/} dated 6 May 1963 from the Permanent Mission of the Dominican Republic transmitting the texts of (1) a note addressed by the Secretary of State for Foreign Affairs of the Dominican Republic to the Minister for Foreign Affairs of Haiti concerning the severance of diplomatic and consular relations between the two countries, and the refusal of the Dominican Government to withdraw the staff of its diplomatic mission until certain guarantees were offered by the Haitian Government, and (2) a message addressed by the President of the Dominican Republic to the Chairman of the Council of the Organization of American States offering to co-operate with the commission of investigation established by the Council of the Organization, acting as provisional Organ of Consultation, to study the situation on the spot.

^{539/} S/5302, O.R., 18th year, Suppl. for April-June 1963, pp. 38-39.
^{540/} S/5306, *ibid.*, pp. 40-42.

The item was included in the agenda^{541/} and was considered by the Council at its 1035th and 1036th meetings on 8 and 9 May 1963. The representatives of Haiti and the Dominican Republic were invited to participate in the discussion.^{542/}

Decision of 9 May 1963 (1036th meeting): Statement by the President summarizing the debate and stating that the Council would remain seized of the question

In his initial statement before the Council at the 1035th meeting on 8 May 1963, the representative of Haiti* stated that the Council was fully aware of the danger inherent in the situation brought to its consideration, not only for the peace of the Caribbean area—where the situation was already so disturbed—but also for the peace of the world. In this area, which had such a strategic importance, a dangerous situation had developed ever since the Government of the Dominican Republic had violated the most elementary laws of co-existence and of the inter-American legal system. Its present attempt was made within the context of efforts to destroy the only Negro nation in the New World. There had been repeated threats of invasion by the President of the Dominican Republic, and the Dominican Republic had made unfounded accusations regarding the violation of its Port-au-Prince Embassy and had presented to the Haitian Government an ultimatum of twenty-four hours in connexion with those accusations. On numerous occasions, threats of invasion had been made. The Government of the Dominican Republic also showed more than tolerance to the subversive activities of the Haitian exiles who had established training camps on Dominican territory and even boasted of the facilities that had been granted to them. There had been numerous violations of the treaty of peace, trade, navigation and extradition signed between the Dominican Republic and the Republic of Haiti on 9 November 1874, including repeated violations of Haitian airspace and massive concentrations of Dominican troops on Haiti's frontiers. The Haitian Government denounced all these threats and acts of aggression of the Dominican Republic against Haiti. The Haitian Government, wishing to maintain and defend its independence and the integrity of its territory which was being threatened, had used its legitimate right to appeal to the Security Council, and was confident that this appeal would receive proper attention. However, if the Council deemed it advisable, despite the exceptional seriousness of the situation, to await the result of the OAS peace mission established under a resolution adopted by that regional organization, the Government of Haiti, which also had confidence in the regional organization, would have no objection, provided, however, that the Security Council did not decide not to proceed with the question and remained ready to take it up again at any time^{543/}

The representative of the Dominican Republic* contended that the situation which had arisen between his country and Haiti had been caused by the behaviour

^{541/} 1035th meeting: before para. 1.

^{542/} 1035th meeting: para. 2.

^{543/} 1035th meeting: paras. 6-4 ; 1036th meeting: paras. 4-19.

of President Duvalier who maintained a rule of terror in Haiti, and, as a climax, had ordered an undisciplined and fanatic soldiery to invade the Dominican Republic Embassy in Port-au-Prince to seize and imprison the adversaries of his regime, at the same time ordering the military occupation of the premises of the Dominican diplomatic mission in the Haitian capital. The attacks against the symbols of the Dominican Republic in Haitian territory such as those committed against its diplomatic mission clearly constituted acts of provocation. The deployment of troops on the Dominican-Haitian frontier could not be considered an act of aggression since they were in a posture of legitimate defence, and in order to prevent the carrying out of Haitian incursions into Dominican territory. The chaotic situation in Haiti resulted from the very nature of the political situation there and not from pressure exercised from the territory of the Dominican Republic. Both the Dominican Republic and Haiti had referred the dispute to the Organization of American States, the regional organization which was intended to solve conflicts of the nature that had emerged between them. In this connexion, the Dominican representative quoted Article 52 of the Charter, paragraphs 2 and 3 of which were the application of the principles of Articles 33 and 36. The Dominican Republic hoped that in accordance with those Articles the Security Council would decide to suspend its consideration of the matter and leave it in the hands of the OAS.

The representative of the Dominican Republic stated further that he would also like to point out the weakness of the Haitian argument that the fundamental cause of the crisis between the Dominican Republic and the Republic of Haiti was the effort of the former to destroy the only Negro State in the Americas. This allegation was, in his view, so absurd that it did not even require a denial, for the fact should be stressed that within the Dominican Republic there had never been racial antagonisms, nor could such antagonisms conceivably exist, since the population was composed of elements from both races who lived together in a close community of interests and feelings. The Dominican Republic had no aggressive designs against the Haitian people or any other people. It saw no reason for the Haitian Government to bring the question before the Security Council since the problem was already being dealt with by the Organization of American States, which had already taken measures that were expected to be effective in re-establishing as soon as possible harmony between both countries.^{544/}

At the end of the discussion, the President (France) noted that all the members of the Council had had an opportunity to express their views on the question and stated that most of the Council members considered it preferable, at the current stage, to leave the initiative to the regional organization which was trying to bring about an amicable settlement of the dispute between two of its members. Those members had indicated that they had no objection to that procedure. The President also stated that the question would remain on the agenda of the Council. He added that he was convinced that, in conformity with their obligations as Members of the United Nations, the two parties would avoid any action which might compromise

the success of measures likely to bring about a peaceful solution of their disputes.^{545/}

REPORTS BY THE SECRETARY-GENERAL CONCERNING YEMEN

INITIAL PROCEEDINGS

By letter^{546/} dated 8 June 1963, the representative of the USSR requested the President of the Security Council to convene the Council in order to consider the reports of the Secretary-General^{547/} on developments relating to Yemen, "since the reports contain proposals concerning possible measures by the United Nations to maintain international peace and security, on which, under the Charter, decisions are taken by the Security Council".

In his first report to the Security Council, dated 29 April 1963 (S/5298), the Secretary-General referred to consultations he had with the representatives of Saudi Arabia, the United Arab Republic and the Yemen Arab Republic regarding "certain aspects of the situation in Yemen of external origin" with a view to making the Office of the Secretary-General "available to the parties for such assistance as might be desired towards ensuring against any developments in that situation which might threaten the peace of the area". As a result of these efforts, undertaken to ease tension and restore conditions to normal, there had emerged an agreement among the three Governments concerned on "identical terms of disengagement in Yemen". In substance, the terms of the agreement provided that the Government of Saudi Arabia would terminate all support and aid to the Royalists of Yemen and prohibit the use of Saudi Arabian territory by Royalist leaders for the purpose of carrying on their struggle against the Republican Government in Yemen. The United Arab Republic undertook to begin simultaneously withdrawal from Yemen of the troops sent on request of the Yemen Republican Government. A demilitarized zone to a distance of twenty kilometres on each side of the demarcated Saudi Arabia-Yemen border was to be established. The demilitarized zone was to be under the observation of impartial observers. The United Arab Republic and Saudi Arabia had further undertaken to cooperate with a representative of the United Nations Secretary-General in reaching agreement on the modalities and verification of disengagement. The Secretary-General reported further that he had designated General Von Horn as his representative to undertake exploratory talks in this respect with the authorities of the parties concerned.

In his second report, dated 27 May 1963 (S/5321), the Secretary-General concluded, as a result of the talks held by General Von Horn, that "United Nations observers in the Saudi Arabia-Yemen area are vitally necessary and could well be the decisive factor in avoiding serious trouble in that area; their presence is desired by all parties concerned; moreover, as the need is urgent, they should be dispatched

^{545/} 1036th meeting: para. 150.

^{546/} S/5326, C.R., 18th year, Suppl. for April-June 1963, p. 51.

^{547/} S/5298, *ibid.*, pp. 33-34; S/5321, *ibid.*, pp. 46-48; S/5323, *ibid.*, pp. 46-50; S/5325, *ibid.*, pp. 50-51.

^{544/} 1035th meeting: paras. 42-53; 1036th meeting: paras. 21-28.

with the least possible delay". The Secretary-General further stated:

"Because of the importance and urgency of the United Nations observation function to the peaceful resolution of the Yemen issues, I have it in mind to proceed with the establishment of the operation as soon as the necessary arrangements for the men and their requirements can be made."

The third report of the Secretary-General dated 3 June 1963 (S/5323) dealt with financial implications of the United Nations observation mission proposed to be sent to Yemen.

In his fourth report, dated 7 June 1963 (S/5325), the Secretary-General explained that since the two parties principally involved had undertaken to defray the costs of the Yemen operation for two months there were "no financial implications for the United Nations in getting the Yemen observation mission established and the operation under way, or for its maintenance for an initial period of two months". The Secretary-General further stated that it was his intention to proceed with the organization and dispatch of the mission and that the arrival in the area of an advance party of United Nations Observers would "formally signify that all provisions of the terms of disengagement are in effect and that the agreement is being implemented in full".

At the 1037th meeting on 10 June 1963, the Security Council decided to include the question in its agenda.^{548/} The question was considered by the Council at its 1037th to 1039th meetings on 10 and 11 June 1963.

Decision of 11 June 1963 (1039th meeting):

- (i) *Requesting the Secretary-General to establish the observation operation as defined by him;*
- (ii) *Urging the parties concerned to observe fully the agreed terms of disengagement;*
- (iii) *Requesting the Secretary-General to report to the Security Council on the implementation of this decision*

At the 1037th meeting the Secretary-General referred to his "conception of the measures involving United Nations action which might be taken in fulfilment of the terms of disengagement accepted by the parties". These measures, he added, were "in the form of a United Nations observation function". He reiterated his reports regarding the lack of financial implications for the United Nations during a period of two months, and the urgent need to initiate the observation operation. He also announced that General Von Horn was alerted and ready to proceed to the area with an advance party on twenty-four hours' notice.^{549/}

At the 1038th meeting on 11 June 1963, both the President (Ghana) and the Secretary-General referred to informal consultations among the Council members.^{550/} The Secretary-General made a statement concerning the observation function the United Nations was called upon to provide, and which could be commenced immediately. He warned that the agreement

on the terms of disengagement might be jeopardized if the United Nations Observation Group was not promptly on the spot, and he expressed the hope that the Council would soon agree on the matter.^{551/}

At the same meeting the representative of Morocco introduced a draft resolution,^{552/} jointly submitted with Ghana.

At the 1039th meeting on 11 June 1963, the Ghana-Morocco draft resolution was adopted by 10 votes in favour to none against, with 1 abstention.^{553/}

The resolution^{554/} read:

"The Security Council,

"Noting with satisfaction the initiative of the Secretary-General mentioned in his report of 24 April 1963 [S/5298] 'about certain aspects of the situation in Yemen of external origin', and aimed at achievement of a peaceful settlement and 'ensuring against any developments in that situation which might threaten the peace of the area',

"Noting further the statement by the Secretary-General before the Security Council on 10 June 1963 [1037th meeting],

"Noting further with satisfaction that the parties directly concerned with the situation affecting Yemen have confirmed their acceptance of identical terms of disengagement in Yemen, and that the Governments of Saudi Arabia and the United Arab Republic have agreed to defray the expenses over a period of two months of the United Nations observation function called for in the terms of disengagement,

"1. Requests the Secretary-General to establish the observation operation as defined by him;

"2. Urges the parties concerned to observe fully the terms of disengagement set out in the report of 29 April and to refrain from any action which would increase tension in the area;

"3. Requests the Secretary-General to report to the Security Council on the implementation of this decision."

In accordance with the last operative paragraph, the Secretary-General submitted to the Security Council a report^{555/} on the implementation of the Council resolution. This report was followed by a series of further reports^{556/} on the extension of the United Nations Yemen Observation Mission for additional periods of two months.

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

^{551/} 1038th meeting: paras. 2-6. See chapter I, Case 42.

^{552/} S/5330, 1038th meeting: para. 27.

^{553/} 1039th meeting: para. 7.

^{554/} S/5331, O.R., 18th year, Suppl. for April-June 1963, pp. 52-53.

^{555/} S/5412, O.R., 18th year, Suppl. for July-Sept. 1963, pp. 152-157.

^{556/} See chapter V, Case 3 for the Council's procedures in authorizing the establishment of UNYOM, and for reports concerning its extension and its termination.

^{548/} 1037th meeting: para. 3.

^{549/} 1037th meeting: paras. 6-8.

^{550/} 1033th meeting: paras. 1 and 3.

SITUATION IN TERRITORIES IN AFRICA UNDER PORTUGUESE ADMINISTRATION

INITIAL PROCEEDINGS

By letter^{557/} dated 11 July 1963, the representatives of Algeria, Burundi, Cameroon, Central African Republic, Chad, Congo (Brazzaville), Congo (Leopoldville), Dahomey, Ethiopia, Gabon, Ghana, Guinea, Ivory Coast, Liberia, Libya, Madagascar, Mali, Mauritania, Morocco, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Tanganyika, Togo, Tunisia, Uganda, United Arab Republic and Upper Volta requested the President of the Security Council to convene an urgent meeting of the Council to consider "the situation in the territories under Portuguese domination".

The letter declared that:

"the state of war prevailing in some of these territories following the persistent refusal of Portugal to comply with the provisions of resolution 1514 (XV) of the General Assembly of the United Nations and particularly those contained in the resolution of the Security Council dated 9 June 1961, constitutes a definite breach of peace and security in the African continent as well as a threat to international peace and security."

The "extreme gravity" of the situation thus created had been a matter of deep concern to the Heads of State at the Conference of Addis Ababa (22-25 May 1963) who adopted a resolution the relevant provisions of which were quoted in an explanatory memorandum attached to the letter.

In the explanatory memorandum it was stated that, "in view of the failure of the Government of Portugal to co-operate with the Sub-Committee [on the situation in Angola] and to carry out the resolutions of the Security Council and the General Assembly", the General Assembly had adopted resolutions 1807 (XVII) and 1819 (XVII) which included a request to the Security Council "to take appropriate measures, including sanctions, to secure Portugal's compliance" with the respective resolutions of the General Assembly and of the Security Council. The Government of Portugal, however, had continued "its repressive measures and use of armed force against the indigenous population of these territories". The memorandum referred further to the decision of the Security Council of 24 April 1963^{558/} deploring violations of Senegalese territory, and to the Portuguese Government's rejection of the recent invitation of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (Committee of Twenty-Four) to attend its meeting, and its refusal to receive a sub-committee of that organ to hold consultations with it. In those circumstances, the Special Committee had adopted a resolution on 4 April 1963 drawing the immediate attention of the Security Council to the situation in the territories under Portuguese administration with a view to its taking appropriate measures, including

sanctions, as provided in General Assembly resolutions 1807 (XVII) and 1819 (XVII). The explanatory memorandum concluded by quoting the relevant provisions of the resolution on decolonization adopted at the Addis Ababa Conference. Among these was a decision to send a delegation of Ministers of Foreign Affairs (of Liberia, Madagascar, Sierra Leone and Tunisia) to speak on behalf of all African States at the meeting of the Security Council which would be convened to examine the report of the Committee of Twenty-Four concerning "the situation in African territories under Portuguese domination".

At the 1040th meeting on 22 July 1963, the Security Council included the question in its agenda.^{559/} The President (Morocco) invited the representatives of Liberia, Madagascar, Portugal, Sierra Leone and Tunisia to participate in the discussion.^{560/} The Council considered the question at the 1040th to 1049th meetings held between 22 and 31 July 1963.

Decision of 31 July 1963 (1049th meeting):

- (i) *Affirming that Portugal's claim to the African territories under its administration as an integral part of metropolitan Portugal was contrary to the principles of the Charter and relevant resolutions of the General Assembly and the Security Council;*
- (ii) *Deprecating the attitude of the Portuguese Government, its repeated violations of the principles of the Charter and its continued refusal to implement the resolutions of the General Assembly and the Security Council;*
- (iii) *Determining that the situation in the territories under Portuguese administration was seriously disturbing peace and security in Africa;*
- (iv) *Urgently calling upon Portugal to implement certain stated measures, including the recognition of the right of the peoples of the territories under its administration to self-determination and eventually to grant independence to all those territories;*
- (v) *Requesting all States to refrain from offering the Portuguese Government any assistance which would enable it to continue its repression of the peoples of the territories under its administration, and to take all measures to prevent the sale of arms and military equipment to the Portuguese Government.*
- (vi) *Requesting the Secretary-General to ensure the implementation of the resolution, to furnish such assistance as he deemed necessary and to report to the Security Council by 31 October 1963*

The Foreign Ministers of Liberia*, Sierra Leone* and Tunisia*, and the Finance Minister of Madagascar*, speaking at the 1040th and 1041st meetings "as representatives of all the independent States of Africa under indigenous rule", stated that under General Assembly resolution 1542 (XV) and in the light of the provisions of the Charter, the territories under the administration of Portugal listed in that resolution were Non-Self-Governing Territories within the meaning of Chapter XI of the Charter. It fol-

^{557/} S/5347, O.R., 18th year, Suppl. for July-Sept. 1963, pp. 6-10.

^{558/} Resolution S/5293, see pp. 205-206 above.

^{559/} 1040th meeting: para. 6.

^{560/} 1040th meeting: para. 7.

lowed from the text of the resolution that the United Nations considered the so-called "overseas" territories not to be an integral part of Portugal.

The representatives of the African Heads of State and Governments were before the Security Council to request that it take action to ensure greater respect for, and compliance with, the resolutions already passed by the United Nations on the Portuguese-administered territories even if it meant the imposition of sanctions against Portugal. The refusal of the Government of Portugal to recognize the right of the African peoples under Portuguese domination to self-determination and to see that right extended to territories under its responsibility was the direct cause of the bloody conflict which had erupted inside those colonies and which had overflowed their frontiers and threatened neighbouring countries. This already dangerous situation had become explosive and constituted a threat to international peace and security, as the resolutions of 9 June 1961 and 24 April 1963^{561/} had indicated. The situation which was considered by the Security Council in its resolution of 9 June 1961 as likely to endanger the maintenance of international peace and security had thus become a serious threat to peace. This threat was mainly due to the constant increase by the Portuguese Government of its military potential in the colonial territories, notably in Angola and in Portuguese Guinea.

The measures adopted by the Security Council in its resolution of 9 June 1961 were provisional measures, and non-compliance with them constituted premeditated dereliction on the part of a Member State.

It was necessary for the Council to ask the Government of Portugal to decide, within a reasonably short time, to renounce its theory of the extension of Portugal into Africa, and to recognize the inalienable rights of the people of Angola, Mozambique and Portuguese Guinea to self-determination. If this assurance was not forthcoming, the Security Council would be asked to call upon all Member States to enforce economic and diplomatic sanctions against Portugal, and, if necessary, to consider further action under appropriate provisions of the Charter.^{562/}

The Foreign Minister of Portugal* stated in reply at the 1042nd meeting that Portugal considered the resolutions concerning information on Portuguese territories to be illegal. With regard to the allegation that it was a "fiction" to call the Portuguese territories "overseas provinces", he stated that the first Portuguese law using the words "overseas provinces" dated back to 1612 and the same conception was used in a law adopted in 1633. The same terminology was also used in the constitutions of 1822, of 1832, of 1911, and of 1933. The conflict in the north of Angola had been instigated and organized from outside in the early months of 1961. After directing attention particularly to the violence in northern Angola, and the part played by the Republic of the Congo (Leopoldville) in aiding and encouraging

this violence, he inquired whether it was lawful for Members of the United Nations to provide military camps, to train foreign guerillas, to send volunteers and to supply arms to be used against a fellow Member. He maintained that the very foundation of Portuguese policy was its opposition to policies of racial supremacy or segregation, and its aim was an integrated multiracial society with equal political rights, educational opportunities, and economic and social possibilities for all. From September 1963 through the beginning of 1964, elections to representative bodies were to be held on the basis of the Organic Law adopted in 1963, thus assuring the widest participation in the Portuguese political and administrative structure. In connexion with statements to the effect that the Portuguese Government had always refused to co-operate with the United Nations, the Minister referred to its specific invitations for visits and suggestions for conversations with the African countries for the consideration of African problems. However, no response had been received. In conclusion, he addressed a personal invitation to the Foreign Ministers of Tunisia, Liberia and Sierra Leone and the Finance Minister of Madagascar to visit Angola and Mozambique, each Minister at his convenience, as a guest of Portugal.^{563/}

At the 1044th meeting on 26 July 1963, the representative of Ghana introduced a draft resolution^{564/} jointly submitted with Morocco and the Philippines.

At the 1048th meeting on 30 July 1963, the representative of Venezuela submitted amendments^{565/} to the three-Power joint draft resolution, which at the 1049th meeting were accepted^{566/} by its sponsors.

At the same meeting the joint draft resolution was adopted, as amended, by 8 votes in favour and none against, with 3 abstentions.^{567/}

The resolution^{568/} read:

"The Security Council,

"Having examined the situation in the Territories under Portuguese Administration as submitted by the thirty-two African Member States,

"Recalling the Security Council resolution of 9 June 1961 and General Assembly resolutions 1807 (XVII) of 14 December 1962 and 1819 (XVII) of 18 December 1962.

"Recalling General Assembly resolution 1542 (XV) of 15 December 1960 which declared the Territories under Portuguese administration to be Non-Self-Governing Territories within the meaning of Chapter XI of the United Nations Charter, as well as resolution 1514 (XV) of 14 December 1960, by which the General Assembly declared *inter alia* that immediate steps be taken to transfer all powers to the peoples of these Territories, without any conditions or reservations, in accordance with their freely expressed wishes, without distinctions as to

^{561/} Resolutions S/4835 and S/5293, see pp. 191 and 205.

^{562/} For texts of relevant statements, see:

1040th meeting: Liberia*, paras. 15-88; Tunisia*, paras. 90-128;

1041st meeting: Madagascar*, paras. 2-9, 11-17, 19-21; Sierra Leone*, paras. 23-34.

^{563/} 1042nd meeting: paras. 3-60.

^{564/} S/5372, 1044th meeting: para. 4.

^{565/} S/5379, 1049th meeting: para. 21.

^{566/} 1049th meeting: paras. 4-7.

^{567/} 1049th meeting: para. 17.

^{568/} S/5380, O.R., 18th year, Suppl. for July-Sept. 1963, pp. 63-64.

race, creed or colour in order to enable them to enjoy complete freedom and independence,

"1. Confirms resolution 1514 (XV) of the General Assembly;

"2. Affirms that the policies of Portugal in claiming the Territories under its administration as 'overseas' territories and as integral parts of metropolitan Portugal are contrary to the principles of the Charter and the relevant resolutions of the General Assembly and the Security Council;

"3. Deprecates the attitude of the Portuguese Government, its repeated violations of the principles of the Charter and its continued refusal to implement the resolutions of the General Assembly and of the Security Council;

"4. Determines that the situation in the Territories under Portuguese administration is seriously disturbing peace and security in Africa;

"5. Urgently calls upon Portugal to implement the following:

"(a) The immediate recognition of the right of the peoples of the Territories under its administration to self-determination and independence,

"(b) The immediate cessation of all acts of repression and the withdrawal of all military and other forces at present employed for that purpose,

"(c) The promulgation of an unconditional political amnesty and the establishment of conditions that will allow the free functioning of political parties,

"(d) Negotiations, on the basis of the recognition of the right to self-determination, with the authorized representatives of the political parties within and outside the Territories with a view to the transfer of power to political institutions freely elected and representative of the peoples, in accordance with resolution 1514 (XV),

"(e) The granting of independence immediately thereafter to all the Territories under its administration in accordance with the aspirations of the peoples;

"6. Requests that all States should refrain forthwith from offering the Portuguese Government any assistance which would enable it to continue its repression of the peoples of the Territories under its administration, and take all measures to prevent the sale and supply of arms and military equipment for this purpose to the Portuguese Government;

"7. Requests the Secretary-General to ensure the implementation of the provisions of this resolution, to furnish such assistance as he may deem necessary and to report to the Security Council by 31 October 1963."

Decision of 11 December 1963 (1083rd meeting):

(i) *Calling upon all States to comply with paragraph 6 of the Security Council's resolution of 31 July 1963;*

(ii) *Deprecating the non-compliance of the Government of Portugal with the Council resolution of 31 July 1963;*

(iii) *Reaffirming the interpretation of self-determination as laid down in General Assembly resolution 1514 (XV);*

(iv) *Requesting the Secretary-General to continue his efforts and to report to the Council not later than 1 June 1964*

On 13 November 1963, the representatives of Algeria, Burundi, Cameroon, Central African Republic, Congo (Brazzaville), Congo (Leopoldville), Dahomey, Ethiopia, Gabon, Ghana, Guinea, Ivory Coast, Liberia, Madagascar, Mali, Mauritania, Morocco, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Togo, Tunisia, Uganda, United Arab Republic and Upper Volta addressed a letter^{569/} to the President of the Security Council requesting him to convene the Council at an early date, to consider the report^{570/} submitted by the Secretary-General. With reference to operative paragraph 5 of resolution S/5380, it was stated that since the measures provided for therein "... have not been implemented, it is essential that the Security Council consider further appropriate measures" to ensure the implementation of the Council resolution of 31 July 1963.

At the 1079th meeting on 6 December 1963, the Security Council resumed its consideration of the item. The President (United States) invited the representatives of Madagascar, Tunisia, Portugal, Liberia and Sierra Leone, who had requested to be heard, to participate in the discussion.^{571/} The President also called the attention of members of the Council to a letter^{572/} dated 3 December 1963 from the President of the General Assembly transmitting the text of General Assembly resolution 1913 (XVIII) concerning the question of the territories in Africa under Portuguese administration. The Council continued its consideration of the question at the 1079th to 1083rd meetings held between 6 and 11 December 1963.

At the 1079th and 1080th meetings, the representatives of Liberia*, Tunisia*, Madagascar* and Sierra Leone* observed that the Secretary-General had referred in his report to the exploratory contacts initiated by him, in which nine African States participated on one side, and Portugal on the other. These conversations in the private office and in the presence of the Secretary-General had centred mainly on the clarification by the representative of Portugal of his Government's concept of "self-determination". The talks had failed because of lack of agreement on this issue. Although pretending to recognize the right of self-determination to peoples under its domination, the Portuguese Government denied them the essential alternative of deciding on independence from foreign

^{569/} S/5460, O.R., 18th year, Suppl. for Oct.-Dec. 1963, pp. 94-95.

^{570/} In accordance with the provision in paragraph 7 of the Council resolution S/5380 of 31 July 1963, on 31 October 1963 the Secretary-General submitted to the Security Council a report (S/5448, O.R., 18th year, Suppl. for Oct.-Dec. 1963, pp. 53-82) on the implementation of this resolution. Three addenda were subsequently circulated as additional Member States communicated information concerning action taken or proposed to be taken by their Governments in the context of the resolution (^{ibid.}, pp. 82-86).

^{571/} 1079th meeting: paras. 1-2.

^{572/} S/5470, O.R., 18th year, Suppl. for Oct.-Dec. 1963, p. 103; 1079th meeting: para. 5.

sovereignty,^{573/} thus denying them that right. The representatives stated further that, even after the adoption by the Security Council of its resolution of 31 July 1963, Portugal had not recognized the right of self-determination and independence, a political amnesty had not been promulgated in the African territories under its administration and no negotiations had been undertaken with authorized representatives of the political parties within and outside the territories, which was essential if unrest in those territories was to cease and a dangerous situation was to be averted. Therefore, the situation in those territories, which had already been considered in the past as seriously threatening international peace and security, had not changed for the better since the last debate in the Security Council and had even seriously worsened since then. As far as the Africans were concerned, there could be no constructive and realistic dialogue with Portugal except within the framework of General Assembly resolution 1514 (XV) and Security Council resolution S/5380 of 31 July 1963. Conditions should be established for direct negotiations between Portugal and the genuine representatives of the African populations under its administration with a view to their accession to independence. In conclusion, the representatives called upon the Council to express again, in unequivocal terms, what was meant by the term "self-determination". The Council should reaffirm its resolution of 31 July 1963 to ensure its full implementation. It should also ask all States to put an end immediately to the dispatch of arms which were being used against the patriots of the territories in Africa under Portuguese dependence. Finally, the Secretary-General should again be requested to do everything he could to bring about Portugal's full compliance with the terms of the Council's resolution of 31 July 1963.^{574/}

At the 1081st meeting on 9 December 1963, the representative of Portugal* stated that during the debate the African representatives had dealt mostly in abstract terms with theoretical and political problems such as the interpretation of the principle of self-determination. The Council, however, under the Charter, had to deal with concrete questions of peace and security. Otherwise, the whole structure of the United Nations would have to be revised and, in fact, the solution of political problems would be shifted from the General Assembly to the Security Council. The question before the Council was outside its competence and no proof was furnished that it constituted a threat to peace. The representative of Portugal stated further that the conversations held with the African representatives might be divided into three different chapters: first, investigation of conditions prevailing in Portuguese overseas territories; secondly, questions relating to peace and security; and thirdly, political problems. The African representatives who participated in the talks, however, had not shown any interest whatsoever in informing

themselves either on the economic, social, educational and political conditions existing in the Portuguese overseas territories or on questions of peace and security. Having, therefore, declined to examine such questions, they had no right to come before the Security Council and make accusations against Portugal. He recalled further that only a short time before the Council had adopted a resolution,^{575/} in accordance with the wishes of several African delegations, calling on a Member State to establish a multi-racial society, with the United Nations being ready to extend a helping hand. However, these same delegations were now opposing Portuguese policy, based on the conception of a multiracial society, as constituting a threat to the peace and security of the world. In conclusion, the representative of Portugal* denied the contention that Portugal was not willing to co-operate with the United Nations. As a demonstration of his Government's intention to dispose of groundless accusations concerning factual conditions in Portuguese overseas territories, he invited the Secretary-General officially to visit Angola and Mozambique at his discretion and convenience.^{576/}

At the 1082nd meeting on 10 December 1963, the representative of Ghana introduced a draft resolution^{577/} jointly sponsored with Morocco and the Philippines.

At the 1083rd meeting on 11 December 1963, the joint draft resolution was put to the vote. Upon request of the representative of the United Kingdom, a separate vote was taken on operative paragraph 3, which was adopted^{578/} by 7 votes in favour, none against, with 4 abstentions. The draft resolution as a whole was adopted^{579/} by 10 votes in favour, none against, with 1 abstention.

The resolution^{580/} read:

"The Security Council,

"Having considered the Secretary-General's report as contained in document S/5448 and addenda,

"Recalling General Assembly resolution 1541 (XV) of 15 December 1960,

"Recalling further its resolution of 31 July 1963,

"Noting with appreciation the efforts of the Secretary-General in establishing contact between representatives of Portugal and representatives of African States,

"1. Regrets that this contact has not achieved the desired results, because of failure to reach agreement on the United Nations interpretation of self-determination;

"2. Calls upon all States to comply with paragraph 6 of its resolution of 31 July 1963;

^{573/} For consideration of the provisions of Article I (2), see chapter XII, Case 2.

^{574/} For texts of relevant statements, see:

1079th meeting: Liberia*, paras. 10-15, 36-38; Tunisia*, paras. 49-63, 77-73;

1080th meeting: Madagascar*, paras. 5-11, 13, 19-20; Sierra Leone*, paras. 23, 26, 30-33.

^{575/} S/5471, O.R., 15th year, Suppl. for Oct.-Dec. 1963, pp. 103-105.

^{576/} 1081st meeting: paras. 14-19, 31-34, 36-38, 46-49.

^{577/} S/5480, same text as S/5481, see below: 1082nd meeting: para. 95.

^{578/} 1083rd meeting: para. 157.

^{579/} 1083rd meeting: para. 156.

^{580/} S/5481, O.R., 15th year, Suppl. for Oct.-Dec. 1963, pp. 110-111.

"3. Deprecates the non-compliance of the Government of Portugal with the resolution of 31 July 1963;

"4. Reaffirms the interpretation of self-determination as laid down in General Assembly resolution 1514 (XV) as follows:

"All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development";

"5. Notes General Assembly resolution 1542 (XV) which enumerated, inter alia, Territories under Portuguese administration as falling under the category of Non-Self-Governing Territories within the meaning of Chapter XI of the Charter;

"6. Believes that action by the Government of Portugal to grant an amnesty to all persons imprisoned or exiled for advocating self-determination in these Territories will be an evidence of its good faith;

"7. Requests the Secretary-General to continue with his efforts and report to the Council not later than 1 June 1964."

The question remained on the list of matters of which the Security Council is seized.^{581/}

THE QUESTION OF RACE CONFLICT IN SOUTH AFRICA

INITIAL PROCEEDINGS

By letter^{582/} dated 11 July 1963, the representatives of Algeria, Burundi, Cameroon, Central African Republic, Chad, Congo (Brazzaville), Congo (Leopoldville), Dahomey, Ethiopia, Gabon, Ghana, Guinea, Ivory Coast, Liberia, Libya, Madagascar, Mali, Mauritania, Morocco, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Tanganyika, Togo, Tunisia, Uganda, United Arab Republic and Upper Volta requested the President of the Security Council to convene an early meeting of the Council "to consider the explosive situation existing in the Republic of South Africa, which constitutes a serious threat to international peace and security".

Stating that the situation stemmed from the apartheid policies of the Government of the Republic of South Africa, the representatives of the African States urged the Security Council to take the necessary action to find a solution, "due to the systematic refusal of that Government to comply with the relevant resolutions of the General Assembly and the Security Council". It was noted further that "the extreme gravity of the situation" had been a matter of "deep concern" to the Heads of State and Governments of the Independent African States who had met at the Conference of Addis Ababa from 22 to 25 May 1963, and had adopted a resolution on this question, the relevant provisions of which were quoted in an attached memorandum. The resolution, in part, called for the dispatch of a delegation of the Foreign Ministers of Liberia, Madagascar, Sierra Leone and Tunisia to inform the Security Council of the explosive situa-

tion existing in South Africa. The resolution also called for "concerted measures of sanction against the Government of South Africa".

At the 1040th meeting on 22 July 1963, the Security Council decided to include the question in the agenda.^{583/} The Council considered the question at its 1050th to 1056th meetings, from 31 July to 7 August 1963. The representatives of Tunisia, Liberia, Sierra Leone and Madagascar were invited to take part in the discussion.^{584/}

At the 1050th meeting on 31 July 1963, the President (Morocco) recalled that the Council at its 1041st meeting had decided to invite the representative of the Republic of South Africa to take part in the consideration of the question.^{585/} A telegram to this effect had been sent to the Government of South Africa. The reply had just been received, and it indicated that the Government of South Africa declined the invitation of the Council. The letter^{586/} from the permanent representative of South Africa—which was read to the Council—stated that the South African Government had decided not to participate in the discussion of the Council on matters which it considered to fall solely within its domestic jurisdiction. The letter also stated that the African States that had submitted the item had "tried to justify their hostility and interference in South Africa's domestic affairs by relying on the totally unfounded allegation that South Africa is a threat to international peace and security". It was the view of the South African Government that these African States, or some among them, had threatened peace and order in southern Africa and had initiated preparations for the use of force against South Africa. Evidence of their intentions could be found in the relevant paragraphs of resolutions adopted by the African States at their recent conference in Addis Ababa, and in the reported statements of certain African leaders. In this regard, reference was made to contributions offered by several African States to finance military and other activities envisaged against South Africa. This "active incitement from abroad and systematic encouragement and subsidization of the small groups of subversive Bantu, supported by Communist elements and fellow travellers in South Africa" had recently compelled the South African Government to assume increased legislative powers for the maintenance of order and stability. The South African Government had decided therefore that "no useful purpose would be served by re-stating its case at the Security Council".

Decision of 7 August 1963 (1056th meeting):

- (i) *Expressing the Security Council's conviction that the situation in South Africa was seriously disturbing international peace and security;*
- (ii) *Deprecating strongly the policies of South Africa in its perpetuation of racial discrimination as being inconsistent with the principles contained in the Charter, and contrary to its*

^{583/} 1040th meeting: para. 6.

^{584/} 1050th meeting: para. 4.

^{585/} 1050th meeting: para. 5. For consideration concerning the question of the effect of the extension of the invitation, see chapter III, Case 26.

^{586/} S/5381, 1050th meeting: para. c.

^{581/} S/5500.

^{582/} S/5345, O.R., 18th year, Supp. for July-Sept. 1963, pp. 11-14.

obligations as a Member State of the United Nations;

- (iii) Calling upon the Government of South Africa to abandon the policies of apartheid and racial discrimination, and to liberate all persons subjected to prison or other restrictions for having opposed the policies of apartheid;
- (iv) Calling solemnly upon all States to cease forthwith the sale and shipment of arms, ammunition of all types and military vehicles to South Africa;
- (v) Requesting the Secretary-General to keep the situation in South Africa under observation and to report to the Security Council by 30 October 1963

The Foreign Ministers of Sierra Leone*, Tunisia*, Madagascar* and Liberia*, speaking at the 1050th and 1051st meetings on behalf of all African member States of the Organization of African Unity, stated that the findings and recommendations of the Special Committee of the General Assembly on the policies of apartheid of the Government of South Africa were supported in a resolution that had been unanimously adopted at the Addis Ababa Conference of that Organization.

In reviewing the past history of the question, they called attention to the fact that the South African Government had continued to disregard the resolutions of the General Assembly and the Security Council which had called upon that Government to revise its policies and bring them into conformity with its obligations and responsibilities under the Charter of the United Nations. They further remarked that the only reason which had been given by the Government of South Africa for its disregard of the resolutions against its policies of apartheid was to state that the United Nations was not authorized under the Charter to intervene in matters which were essentially within the domestic jurisdiction of any State. In their view, the validity of Article 2 (7) was not disputed but those who drew up the Article did not imagine that its adoption would result in depriving the United Nations of any right to act in situations involving the violation of fundamental principles of the Charter. The situation under consideration fell within the scope not only of Articles 55 and 56, but also of Articles 34 and 35 and subsequent Articles. Furthermore, the reference to Article 2 (7) was all the more futile as the General Assembly had repeatedly discussed racial segregation in South Africa. The twenty-seven resolutions adopted by a very large majority could scarcely lend any weight to such an argument. The Security Council had never permitted the defenders of colonial interests to take refuge in the "domestic jurisdiction" provisions of the Charter. When peace and security had been threatened, the Council had, time and again, acted promptly without paying any attention to "hypocritical allegations" of interference in domestic matters. In fact, no reasonable interpretation of the provisions of the Charter could require the organ which was responsible for the maintenance of international peace and security to refrain from intervening until an explosion actually occurred. The Security Council unquestionably had the duty to prevent such an explosion. Moreover, the situation in South Africa had

been greatly aggravated by an accelerated arms build-up and by the increasingly provocative attitude of the South African Government. Its arms build-up and its multiplicity of laws against freedom constituted the greatest threat to peace and security on the African continent. Besides, that Government was extending its policies and practices to the territory of South West Africa, which it had unlawfully occupied. The United Nations, to be true to its Charter, could not any longer tolerate the presence in South West Africa of the Government of South Africa, or the extension to that territory of the doctrine and policies of apartheid imposed by that Government. In conclusion it was stated that the Heads of the African States of the Organization of African Unity wished to add their plea to those of the General Assembly and the Special Committee that the Security Council would adopt the measures provided in the Charter and recommended by the Special Committee to compel the Government of the Republic of South Africa to abandon, before it was too late, its present collision course. The African representatives also urged the Council to give full support to General Assembly resolution 1761 (XVII).^{587/}

At the 1054th meeting on 6 August 1963, the representative of Ghana introduced a draft resolution^{588/} jointly sponsored with Morocco and the Philippines.

According to operative paragraph 3 of the draft resolution, the Council would call upon all States to boycott all South African goods and to refrain from exporting to South Africa strategic materials of direct military value.

At the 1056th meeting on 7 August 1963, upon the request of the representative of the United States, a separate vote was taken on operative paragraph 3, which was not adopted. There were 5 votes in favour, none against, and 6 abstentions.^{589/} The draft resolution, as amended, was then adopted by 9 votes in favour, none against, and 2 abstentions.^{590/}

The resolution^{591/} read:

"The Security Council,

"Having considered the question of race conflict in South Africa resulting from the policies of apartheid of the Government of the Republic of South Africa, as submitted by the thirty-two African Member States,

"Recalling Security Council resolution of 1 April 1960,^{592/}

"Taking into account that world public opinion has been reflected in General Assembly resolution 1761 (XVII) and particularly in its paragraphs 4 and 8,

"Noting with appreciation the two interim reports adopted on 6 May and 16 July 1963 by the Special

^{587/} For texts of relevant statements, see: 1050th meeting: Sierra Leone*, paras. 10-33; Tunisia*, paras. 34-34; 1051st meeting: Liberia*, paras. 26-80; Madagascar*, paras. 9-25.

^{588/} S/5384, 1054th meeting: para. c2.

^{589/} 1056th meeting: paras. 15-17.

^{590/} 1056th meeting: para. 15.

^{591/} S/5386, O.R., 18th year, Suppl. for July-Sept. 1963, pp. 73-74.

^{592/} Resolution S/4300, see p. 157.

Committee on the policies of apartheid of the Government of the Republic of South Africa,^{593/}

"Noting with concern the recent arms build-up by the Government of South Africa, some of which arms are being used in furtherance of that Government's racial policies,

"Regretting that some States are indirectly providing encouragement in various ways to the Government of South Africa to perpetuate, by force, its policy of apartheid,

"Regretting the failure of the Government of South Africa to accept the invitation of the Security Council to delegate a representative to appear before it,

"Being convinced that the situation in South Africa is seriously disturbing international peace and security,

"1. Strongly deprecates the policies of South Africa in its perpetuation of racial discrimination as being inconsistent with the principles contained in the Charter of the United Nations and contrary to its obligations as a Member State of the United Nations;

"2. Calls upon the Government of South Africa to abandon the policies of apartheid and discrimination as called for in the Security Council resolution of 1 April 1960, and to liberate all persons imprisoned, interned or subjected to other restrictions for having opposed the policy of apartheid;

"3. Solemnly calls upon all States to cease forthwith the sale and shipment of arms, ammunition of all types and military vehicles to South Africa;

"4. Requests the Secretary-General to keep the situation in South Africa under observation and to report to the Security Council by 30 October 1963."

By letter^{594/} dated 23 October 1963, the representatives of Algeria, Central African Republic, Ceylon, Congo (Brazzaville), Congo (Leopoldville), Dahomey, Ethiopia, Gabon, Ghana, Guinea, India, Indonesia, Ivory Coast, Liberia, Madagascar, Malaysia, Mali, Mauritania, Morocco, Niger, Nigeria, Pakistan, Senegal, Sierra Leone, Somalia, Sudan, Tanganyika, Togo, Tunisia, Uganda, United Arab Republic and Upper Volta requested the President of the Security Council to convene an urgent meeting of the Council to consider the report^{595/} submitted by the Secretary-

^{593/} Documents S/5310 and S/5353, see GAOR, 13th Session, Annexes, addendum to a.i. 30, document A/5497/Add.1, annexes III and IV.

^{594/} S/5444 and Add.1, O.R., 13th year, Suppl. for Oct.-Dec. 1963, pp. 41-42.

^{595/} S/5433 and Add.1-5, O.R., 13th year, Suppl. for Oct.-Dec. 1963, pp. 7-33. In his report, the Secretary-General referred to an exchange of communications with the Government of South Africa which refused to comment on the question of the implementation of the Council resolution raised by the Secretary-General "since by doing so it would by implication recognize the right of the United Nations to intervene in South Africa's domestic affairs". The South African Government had also stated that the Council's resolution, in calling for an arms embargo on South Africa, was a denial of the spirit of Article 51 of the Charter. The resolution could not, therefore, have any binding effect on the Republic of South Africa or any other Member State. In the report and in its addenda were also given the substance of the replies received from Member States on the action taken or proposed to be taken by their Governments regarding the implementation of the resolution. An additional addendum containing further replies was issued on 23 December 1963 (S/5433/Add.6, *ibid.*, pp. 33-40).

General in pursuance of the Security Council resolution of 7 August 1963. In the same communication it was stated that the reaction of the South African Government to this resolution had been "completely negative", and further that "the situation, which according to that resolution was 'seriously disturbing international peace and security' has been further exacerbated by recent developments in that country". In conclusion, it was stated that the Council should convene to examine the report of the Secretary-General in order "to consider additional measures to ensure the compliance of the South African Government with previous Security Council resolutions and its obligations as a Member State".

The Council continued its consideration of the question at the 1073rd to the 1078th meetings held between 27 November and 4 December 1963. The representatives of India, Liberia, Madagascar, Tunisia and Sierra Leone were invited to participate in the discussion.^{596/}

Decision of 4 December 1963 (1078th meeting):

- (i) *Expressing the strengthened conviction of the Security Council that the situation in South Africa was seriously disturbing international peace and security;*
- (ii) *Strongly deprecating the apartheid policies of the Government of South Africa as being inconsistent with the principles of the Charter and with its obligations as a Member State;*
- (iii) *Appealing to all States to comply with the provisions of Security Council resolution of 7 August 1963;*
- (iv) *Urgently requesting the South African Government to cease forthwith its continued imposition of discriminatory and repressive measures, and again calling upon that Government to liberate all persons subjected to prison or other restrictions for having opposed the policies of apartheid;*
- (v) *Calling solemnly upon all States to cease forthwith the sale and shipment of equipment and materials for the manufacture and maintenance of arms and ammunition in South Africa;*
- (vi) *Requesting the Secretary-General to establish under his direction and reporting to him a small group of recognized experts to examine methods of resolving the current situation in South Africa through full, peaceful and orderly application of human rights to all the inhabitants of its territory, and to consider what part the United Nations might play in the achievement of that end;*
- (vii) *Inviting the South African Government to avail itself of the assistance of this group in order to bring about such peaceful and orderly transformation;*
- (viii) *Requesting the Secretary-General to continue to keep the situation under observation and to report to the Council—in any case not later than 1 June 1964—on the implementation of this resolution*

The representatives of Liberia*, Tunisia*, India*, Sierra Leone* and Madagascar*, commenting on the

^{596/} 1073rd meeting: paras. 8-11.

report of the Secretary-General, drew attention to the reply of the Minister of Foreign Affairs of South Africa to the letter of the Secretary-General concerning the implementation of the Security Council resolution of 7 August 1963. The reply of the South African Foreign Minister was dated 11 October 1963, and was reproduced in the report. The Foreign Minister's argument that the resolution was contrary to the principle contained in Article 2 (7), since the matter fell within the domestic jurisdiction of South Africa, was held to be untenable and it was noted that it had been rejected by all United Nations organs. The various provisions of the Charter could not be interpreted separately. South Africa, as a signatory of the Charter and a Member of the United Nations, had pledged itself to respect the provisions of Articles 55 and 53 which concerned, among other things, the observance of human rights. International jurists were mostly agreed that there was an element of legal duty in the undertaking given in Article 56. There was, therefore, no doubt about the competence of the United Nations to deal with the matter of apartheid in South Africa, and no violation of Article 2 (7) of the Charter was thereby involved.

With regard to the statement that the South African military build-up was made necessary because of threats by African States, it was asserted that no African State wanted to fight a war with South Africa, or was presently armed for such an eventuality. Furthermore, the military build-up in South Africa started long before the Addis Ababa Conference convened in May 1963. Concerning the argument that the imposition of an arms embargo was contrary to the spirit of Article 51, which recognized the right of Member States to individual and collective self-defence, and that the Council resolution could not be binding on any Member State, it was noted that such a contention was contrary even to the title of the resolution of 7 August 1963. The last paragraph of the preamble of that resolution stressed the conviction of the Council that the situation in South Africa was "seriously disturbing international peace and security". Although not mentioned in the Charter, it was undeniable that the disturbance of peace constituted more than a threat to the peace, and obviously fell between a threat to the peace and a breach of the peace. Measures decided upon by the Security Council were obviously binding on Member States in conformity with Article 25 of the Charter. It was in that spirit that Member States had replied to the Secretary-General's request for information concerning the embargo on arms prescribed by the Security Council.

With regard to recent developments, the situation in South Africa was characterized in terms of "continuous deterioration". It appeared evident that the South African Government had no intention of changing its policy either with regard to the main bodies of the Organization or with regard to the Africans in its own country. The Council was, therefore, concerned with the fact that the continuation of the apartheid policy in South Africa constituted a serious threat to international peace and security. Only the firmest sanctions taken and implemented could make an impact. The Council could well prescribe measures of an economic character to force the South African Government to modify its position. One such measure

could be to halt the supply to South Africa of weapons, and also of the material necessary for the manufacture and maintenance of weapons.^{597/}

At the 1076th meeting on 3 December 1963, the representative of Norway introduced a draft resolution^{598/} which he declared to have been formulated on the basis of informal talks and consultations with members of the Council and with representatives of Member States who had participated in the debate on the matter before the Council.

At the 1077th meeting on 3 December 1963, the representative of Ghana expressed doubts on the necessity of "establishing a 'group of recognized experts' as is envisaged in operative paragraph 6 of the draft resolution" and requested that a separate vote be taken on the relevant paragraph.^{599/}

At the 1078th meeting on 4 December 1963, the representative of the United Kingdom requested that a separate vote be taken on operative paragraph 1 of the draft resolution dealing with an appeal to all States to implement the Security Council resolution of 7 August 1963. His delegation would reserve its position regarding the supply of equipment to South Africa proper to the purposes of her right to self-defence under Article 51 of the Charter.^{600/}

At the same meeting, the representatives of Ghana and the United Kingdom withdrew their requests for separate votes in response to appeals made by the sponsor of the draft resolution, which was put to the vote as a whole and adopted unanimously.^{601/}

The resolution^{602/} read:

"The Security Council,

"Having considered the race conflict in South Africa resulting from the policies of apartheid of the Government of the Republic of South Africa,

"Recalling previous resolutions of the Security Council and of the General Assembly which have dealt with the racial policies of the Government of the Republic of South Africa, and in particular the Security Council resolution of 7 August 1963,

"Having considered the Secretary-General's reports contained in S/5438 and addenda,

"Deploing the refusal of the Government of the Republic of South Africa as confirmed in the reply of the Minister of Foreign Affairs of the Republic of South Africa to the Secretary-General received on 11 October 1963, to comply with the Security Council resolution of 7 August 1963, and to accept the repeated recommendations of other United Nations organs,

^{597/} For texts of relevant statements, see:

1073rd meeting: Liberia*, paras. 15-19; Tunisia*, paras. 51-60;

1074th meeting: Ghana, paras. 2-37; India*, paras. 39-57; Sierra Leone*, paras. 59-77;

1075th meeting: Morocco, paras. 5-27; Madagascar*, paras. 29-51.

^{598/} S/5469, same text as S/5471, see below; 1076th meeting: paras. 59-60.

^{599/} 1077th meeting: paras. 27-30, 34.

^{600/} 1078th meeting: para. 20.

^{601/} 1078th meeting: paras. 120-121, 128-130, 137.

^{602/} S/5471, O.R., 18th year, Suppl. for Oct.-Dec. 1963, pp. 103-105.

"Noting with appreciation the replies to the Secretary-General's communication to the Member States on the action taken and proposed to be taken by their Governments in the context of that resolution's operative paragraph 3, and hoping that all the Member States as soon as possible will inform the Secretary-General about their willingness to carry out the provisions of that paragraph,

"Taking note of the reports of the Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa,

"Noting with deep satisfaction the overwhelming support for the resolution 1881 (XVIII) adopted by the General Assembly on 11 October 1963,

"Taking into account the serious concern of the Member States with regard to the policy of apartheid as expressed in the general debate in the General Assembly as well as in the discussions in the Special Political Committee,

"Being strengthened in its conviction that the situation in South Africa is seriously disturbing international peace and security, and strongly deprecating the policies of the Government of South Africa in its perpetuation of racial discrimination as being inconsistent with the principles contained in the Charter of the United Nations and with its obligations as a Member State of the United Nations,

"Recognizing the need to eliminate discrimination in regard to basic human rights and fundamental freedoms for all individuals within the territory of the Republic of South Africa without distinction as to race, sex, language or religion.

"Expressing the firm conviction that the policies of apartheid and racial discrimination as practised by the Government of the Republic of South Africa are abhorrent to the conscience of mankind and that therefore a positive alternative to these policies must be found through peaceful means,

"1. Appeals to all States to comply with the provisions of the Security Council resolution of 7 August 1963;

"2. Urgently requests the Government of the Republic of South Africa to cease forthwith its continued imposition of discriminatory and repressive measures which are contrary to the principles and purposes of the Charter and which are in violation of its obligations as a Member of the United Nations and of the provisions of the Universal Declaration of Human Rights;

"3. Condemns the non-compliance by the Government of the Republic of South Africa with the appeals contained in the above-mentioned resolutions of the General Assembly and the Security Council;

"4. Again calls upon the Government of South Africa to liberate all persons imprisoned, interned or subjected to other restrictions for having opposed the policy of apartheid;

"5. Solemnly calls upon all States to cease forthwith the sale and shipment of equipment and materials for the manufacture and maintenance of arms and ammunition in South Africa;

"6. Requests the Secretary-General to establish under his direction and reporting to him a small group of recognized experts to examine methods of resolving the present situation in South Africa through full, peaceful and orderly application of human rights and fundamental freedoms to all inhabitants of the territory as a whole, regardless of race, colour or creed, and to consider what part the United Nations might play in the achievement of that end;

"7. Invites the Government of the Republic of South Africa to avail itself of the assistance of this group in order to bring about such peaceful and orderly transformation;

"8. Requests the Secretary-General to continue to keep the situation under observation and to report to the Security Council such new developments as may occur, and in any case not later than 1 June 1964, on the implementation of this resolution."

The question remained on the list of matters of which the Security Council is seized.^{003/}

SITUATION IN SOUTHERN RHODESIA--

INITIAL PROCEEDINGS

By letter^{004/} dated 2 August 1963 the representatives of Ghana, Guinea, Morocco and the United Arab Republic requested the President of the Security Council to call an urgent meeting of the Council to consider the situation in Southern Rhodesia in relation to: (a) General Assembly resolution 1760 (XVII) of 31 October 1962; (b) the resolution of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples adopted at its 177th meeting on 20 June 1963; and (c) implementation of Article 73 of the Charter with respect to the British Non-Self-Governing Territory of Southern Rhodesia.

A memorandum attached to the letter stated why these Member Governments considered that the continuance of the situation was likely to endanger the maintenance of international peace and security, and why they thought it necessary that the Council should consider the item as a matter of urgency. The memorandum stated that: the British Government had refused to abide by the resolutions of the General Assembly in regard to "its Colony of Southern Rhodesia"; the situation in the territory had become aggravated and had been characterized as one "constituting a threat to international peace and security" by the Special Committee in its resolution of 20 June 1963; and the British Parliament had enacted the Rhodesia and Nyasaland Act, 1963 which would enable the British Government to transfer almost every

^{003/} In pursuance of his mandate under the resolution, the Secretary-General submitted to the Security Council on 20 April 1964 a report (S/5653 and Corr.1) to which was annexed the report submitted to him on 20 April 1964 by the Group of Experts established by him in pursuance of operative paragraph 6 of Council resolution S/5471 adopted on 4 December 1963. For further reference to the establishment, composition and termination of the Group of Experts, see chapter V, Case 4.

^{004/} S/5382, O.R., 18th year, Suppl. for July-Sept. 1963, pp. 64-71.

attribute of sovereignty and independence to Southern Rhodesia without notice to the United Nations.

By note verbale^{605/} dated 28 August 1963 to the President of the Security Council, the representative of Ghana requested that a "Memorandum in regard to Southern Rhodesia", submitted to the Council by his delegation together with other documents, be published as a Security Council document. In the memorandum it was stated that the situation in Southern Rhodesia called for investigation by the Security Council under Article 34 of the Charter.

By letter^{606/} dated 30 August 1963 from the Chargé d'Affaires of the Permanent Mission of the Congo (Brazzaville) on behalf of the delegations of Algeria, Burundi, Cameroon, Central African Republic, Chad, Congo (Brazzaville), Congo (Leopoldville), Dahomey, Ethiopia, Gabon, Ivory Coast, Liberia, Libya, Madagascar, Mali, Mauritania, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Tanganyika, Togo, Tunisia, Uganda and Upper Volta, the President of the Security Council was informed that their representatives had unanimously decided to give their complete support to the terms of the letter of 2 August 1963 addressed to him by the representatives of Ghana, Guinea, Morocco and the United Arab Republic, and to the request for a meeting of the Council on the question.

At the 1064th meeting on 9 September 1963, the Security Council decided to include the question in its agenda.^{607/} Before the adoption of the agenda the representative of the United Kingdom, while not objecting to its adoption, made reservations regarding the lack of competence of the Council on the matter.^{608/} The Council considered the question at its 1064th to 1069th meetings, from 9 to 13 September 1963. The representatives of Mali, Tanganyika, Uganda and the United Arab Republic were invited to take part in the discussion.^{609/}

*Decision of 13 September 1963 (1069th meeting):
Rejection of the joint draft resolution submitted
by Ghana, Morocco and the Philippines*

The representatives of Ghana, Mali*, the United Arab Republic*, Uganda*, Tanganyika* and Morocco stated at the 1064th to 1067th meetings that within a short time "the most powerful air force at present existing on the African continent" and a "small but highly efficient army recruited on a racial basis" would be transferred to the exclusive control of the Southern Rhodesian Government. The transfer of these forces to a "white minority Government" representative of only 6 per cent of the European population and totally unrepresentative of the 94 per cent African population, could only result in a conflict on the African continent. The urgency of the situation had been accentuated by the enactment of a law by the British Parliament in 1963 which permitted the United Kingdom Government, by the formal process of passing an Order in Council, subsequently

to make the necessary detailed provisions for the dissolution of the Central African Federation and the transfer of its powers. In view of the possibility of an early transfer of powers, it was imperative for the Security Council to take preventive action to avoid future conflict since the reinforcement of the potential of the Southern Rhodesian Government for oppressing its African population would create a dangerous situation seriously threatening the peace and security of the States bordering on Southern Rhodesia. These developments and events had given African States cause for the serious concern which had been expressed in the resolution passed by the Heads of African States and Governments at their Conference at Addis Ababa, in May 1963, by which the United Kingdom had been invited not to transfer the powers and attributes of sovereignty to "foreign minority governments imposed on African peoples by the use of force and under cover of racial legislation" such as that of Southern Rhodesia. The present state of affairs in Southern Rhodesia was the responsibility of the United Kingdom. The African States supported the conclusion of the Special Committee set up under resolution 1745 (XVI) that the territory of Southern Rhodesia was a Non-Self-Governing Territory within the meaning of Chapter XI of the Charter. This view had been endorsed by the General Assembly and confirmed in subsequent Assembly resolutions, particularly resolution 1760 (XVII) of 31 October 1962, which reaffirmed resolution 1747 (XVI) of 28 June 1962. The Special Committee of Twenty-four, in its resolution of 20 June 1963, had also confirmed that conclusion. Faced with an action threatening international peace and security, the Security Council should impress upon the United Kingdom the undesirability of proceeding with the transfer of any armed forces to Southern Rhodesia until a Government fully representative of the whole population, irrespective of race, creed or colour, had been established in that territory, in accordance with the General Assembly Declaration contained in resolution 1514 (XV).^{610/}

At the 1066th meeting, the representative of the United Kingdom stated that the consideration of the question represented an abuse of the functions of the Council. No situation of the nature described in Article 34 of the Charter existed in Southern Rhodesia. The British Government did not accept that Southern Rhodesia was a Non-Self-Governing Territory. In its view, Article 2 (7) clearly applied.^{611/} The onus for establishing that a situation existed in Southern Rhodesia that called for measures either under Chapter VI or Chapter VII of the Charter rested upon those countries which had brought the question before the Council. He rejected the contention that the Security Council should in some way anticipate disturbances in an indefinite future. In reply to the allegation that the United Kingdom had not abided by certain General Assembly resolutions on Southern Rhodesia, he stated

^{605/} S/5403 and Corr.1.

^{606/} S/5409, O.R., 18th year, Suppl. for July-Sept. 1963, p. 151.

^{607/} 1064th meeting: para. 9.

^{608/} 1064th meeting: paras. 2-8.

^{609/} 1064th meeting: para. 13; 1066th meeting: para. 2.

^{610/} For texts of relevant statements, see:

1064th meeting: Ghana, paras. 17-75;

1065th meeting: Mali*, paras. 3-33; United Arab Republic*, paras. 34-63;

1066th meeting: Tanganyika*, paras. 99-120; Uganda*, paras. 78-98; 1067th meeting: Morocco, paras. 3-19.

^{611/} See chapter XII, Case 15.

that these resolutions depended upon an interpretation of Chapter XI of the Charter which the British Government could not accept as valid. Southern Rhodesia was not to be regarded as a Non-Self-Governing Territory. Although the General Assembly had asserted the opposite view, an assertion of its competence did not make something exist which did not exist in the Charter itself. Besides, it was not the function of the Security Council to decide whether a territory was or was not self-governing. As for the assertion that the situation described by the Special Committee as explosive had been aggravated, no evidence had been produced in support of that argument except the opinion of a sub-committee of the General Assembly. It was the duty of the Council to make its own findings, and it was by no means bound to follow a sub-committee of the Assembly. In dealing with the proposed "reversion" of powers, not the "transfer" of powers, to Southern Rhodesia, he stated that when the Federation of Rhodesia and Nyasaland was established in 1953 certain powers previously exercised in Southern Rhodesia by the Government of that territory were conferred with full consent upon the Government of the Federation. On the dissolution of the Federation resulting from the Victoria Falls Agreement, these powers would revert to the territorial Government by which they were previously exercised. Moreover, such reversion of powers provided no grounds for bringing the matter to the Security Council. It would be, therefore, inappropriate for the Council to take any action whatsoever on the item.^{612/}

At the 1068th meeting on 12 September 1963, the representative of Ghana introduced a draft resolution,^{613/} jointly sponsored with Morocco and the Philippines, under which the Council would invite the United Kingdom Government not to transfer to its colony of Southern Rhodesia any powers or attributes of sovereignty until the establishment of a government fully representative of all the inhabitants of the colony, and not to transfer to that colony the armed forces and aircraft as envisaged by the Central Africa Conference, 1963. The United Kingdom Government would further be invited to implement the General Assembly resolutions on the question of Southern Rhodesia, in particular General Assembly resolutions 1747 (XVI) and 1760 (XVII). The General Assembly would also be requested to continue its examination of the question of Southern Rhodesia with a view to securing a just and lasting settlement.

At the 1069th meeting on 13 September 1963, the draft resolution jointly sponsored by Ghana, Morocco and the Philippines failed of adoption. There were 8 votes in favour, 1 against (the vote against being that of a permanent member), and 2 abstentions.^{614/}

The question remained on the list of matters of which the Security Council is seized.^{615/}

^{612/} 1066th meeting: paras. 3-77. For discussion concerning action under Chapter VI of the Charter, see chapter X, Case 14.

^{613/} S/5425/Rev.1; 1068th meeting: para. 4.

^{614/} 1069th meeting: para. 64.

^{615/} S/5500.

COMPLAINT BY THE GOVERNMENT OF CYPRUS INITIAL PROCEEDINGS

By letter^{616/} dated 26 December 1963, the representative of Cyprus brought to the attention of the Security Council, in accordance with Articles 34, 35, 39, 1 (1), 2 (4) and 24 (1), a complaint against the Government of Turkey for "acts of (a) aggression, (b) intervention in the internal affairs of Cyprus by the threat and use of force against its territorial integrity and political independence ... perpetrated yesterday, 25 December"; and requested that a meeting of the Council be convened under rule 3 of its provisional rules of procedure.

After citing certain incidents in support of the allegations, the letter noted that Greek troops had to move into Nicosia in order to stem the tide of joint attacks by the Turkish Cypriots and Turkish units, resulting in a confrontation of the units of the Greek and Turkish armies with grave and threatening consequences to international peace. In view of the gravity of the situation, the Council was asked "... to consider the matter and to take appropriate measures under the relevant Articles of the Charter in order to remedy the situation and to prevent such violations from occurring in the future".

At the 1085th meeting on 27 December 1963, the Council decided^{617/} to include the question in its agenda. The representatives of Cyprus, Greece and Turkey were invited^{618/} to participate in the discussion.

The Council considered the question at its 1085th meeting on 27 December 1963.

*Decision of 27 December 1963 (1085th meeting):
Adjournment, after statements by interested parties, with the proviso that the meeting would be reconvened by the President when and if it was considered appropriate by the members*

At the same meeting, the representative of Cyprus* stated that his Government felt compelled to request an urgent meeting of the Council, since the country was under the threat of an invasion. Such a fear was justified by the announcement made in the Turkish Chamber of Deputies by the Prime Minister of Turkey: "We are sending our force to Cyprus. We are sending our ships to Cyprus to stand there awaiting orders to act." However, shortly after requesting the immediate Council meeting, the representative of Cyprus had learned that the ships were no longer speeding towards Cyprus but were turned in another direction. This he felt was a consequence of the immediate application for a meeting of the Security Council. After noting that the expedition by the Turkish naval units would have the "psychological effect" of terrorizing the Greeks on the island and emboldening the Turks to attack, he pointed out that there had not been any similar action on the part of Greece. Thus, "By this policy of force, of the threat of force in violation of Article 2, paragraph 4, of the Charter ... we cannot have peace in the island".^{619/}

^{616/} S/5488, O.R., 18th year, Suppl. for Oct.-Dec. 1963, pp. 112-114.

^{617/} 1085th meeting: preceding para. 1.

^{618/} 1085th meeting: paras. 1-2.

^{619/} See chapter XII, Case 11.

He stated further that the cause of the difficulties was the divisive provisions of the Constitution that divided the people into two camps hostile to each other. He stated that while he could understand the wish of the Turkish Government to protect the interests of the Turks in Cyprus, those interests were not promoted by incitement to violence or to the use of force, but rather by inducing them to co-operate with the Greek side in order to find a peaceful solution of the differences that divided them. In conclusion, he requested the Council to consider the question as a matter of urgency with regard to the preservation of the cease-fire and the promotion of peace in the island.^{620/}

In reply to the allegation made by the representative of Cyprus that Turkish ships were heading towards Cyprus, the representative of Turkey* stated that his Government had already denied "such rumours", and had instructed him "categorically and officially" to deny them. He stated that after a campaign lasting for more than two years designed to repudiate the rights of the Turkish community in Cyprus, to violate those rights and to make them ineffective, the Greek Cypriots, during the night of 21/22 December, embarked on a very serious course of action, "the massacre of the entire Turkish community of the island". After describing the efforts made by his Government to end hostilities on the island, he expressed surprise that "... at this very moment, when there is hope for peace, Ambassador Rossides should come here to make totally unfounded accusations". Turkey, however, would continue its efforts at conciliation, as far as it could, and hoped that the other party would do likewise.^{621/}

The representative of Greece* observed that the representative of Cyprus had expressed the wish to limit his request, for the time being, to the strict and faithful implementation of the cease-fire in Cyprus. Such a request was a wise one at that stage and if the Council were to favour it and encourage the efforts that were being made in Cyprus for the implementation of the cease-fire, it would have performed a very useful work at this serious time. He read a message addressed by the King of Greece to the President of Turkey which disputed Turkey's account of the situation, and afterwards noted that the assurances given by the representative of Turkey

^{620/} 1085th meeting: paras. 6-33.

^{621/} 1085th meeting: paras. 34-47.

to the Council were of the kind that could dispel the apprehensions of the people of Cyprus.^{622/}

In exercise of his right of reply, the representative of Cyprus noted that the representative of Turkey had referred to the Treaty of Guarantee as giving Turkey the right to use force in Cyprus, and contended that such an interpretation was invalid under Article 103 of the Charter.^{623/} He repeated that Article 2, paragraph 4, entirely prohibited any threat or use of force except in strict self-defence under Article 51 or in execution of collective measures under the Charter for the maintenance and restoration of peace.^{624/} Only the United Nations could use force to restore order where there was a threat to international peace. Moreover, the Treaty of Guarantee did not stipulate anything about force. It provided that Cyprus, Greece and Turkey undertook to ensure the maintenance of Cyprus' independence, territorial integrity and security, as well as respect of its Constitution. He then expressed the wish that the Council would adopt a resolution

"ensuring the peace of Cyprus, and ensuring also that there shall be no intervention by force, that the cease-fire shall continue, that the agreement shall continue without threat and without force and that everybody shall do what is necessary for promoting peace in the island. . . ." ^{625/}

The representative of Turkey denied that Turkish troops in Cyprus had taken part in the fighting, and after repeating his assurances that Turkish ships were not heading towards the island, he expressed Turkey's desire to receive the assurance that the cease-fire would be respected and that the slaughter and carnage in Cyprus would be stopped.^{626/}

The President (United States) stated that Council members, having heard statements from the interested parties, might wish to consider them. He proposed that the meeting be adjourned, to be reconvened on consultation by the President when and if it was considered appropriate by the members. In the absence of any objection, it was so decided.^{627/}

The question remained on the list of matters of which the Security Council is seized.^{628/}

^{622/} 1085th meeting: paras. 48-56.

^{623/} See chapter XII, Case 29.

^{624/} See chapter XII, Case 11.

^{625/} 1085th meeting: paras. 58-74.

^{626/} 1085th meeting: paras. 75-81.

^{627/} 1085th meeting: paras. 92-93.

^{628/} S/5500.