

**Chapter VI**

**RELATIONS WITH OTHER UNITED NATIONS ORGANS**

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## INTRODUCTORY NOTE

As previously in the Repertoire, the present chapter, dealing with the relations of the Security Council with all the other organs of the United Nations, is broader in scope than chapter XI of the provisional rules of procedure of the Security Council (rule 61) which governs only certain procedures related to the election by the Council of members of the International Court of Justice.

This chapter presents material bearing on the relations of the Security Council with the General Assembly (part I), and also brings up to date the account given in the previous volumes of the Repertoire of the

transmission by the Trusteeship Council to the Security Council of questionnaires and reports (part III). No material has been found for the period under review which would require entry in parts II, IV and V relating respectively to relations with the Economic and Social Council, the International Court of Justice and the Military Staff Committee.

The functions of the Secretariat in relation to the Security Council, to the extent that they are governed by the provisional rules of procedure of the Council, are covered in chapter I, part IV. Proceedings regarding the appointment of the Secretary-General under Article 97 are treated in part I of this chapter.

### Part I

## RELATIONS WITH THE GENERAL ASSEMBLY

### NOTE

In part I, concerning the relations of the Security Council with the General Assembly, the arrangement of the material remains the same as in the previous volumes of the Repertoire.

Part I is mainly concerned with instances in which the responsibility of the Security Council and of the General Assembly is, under the provisions of the Charter or the Statute of the International Court of Justice, either exclusive or mutual; that is, where a final decision is or is not to be taken by one organ without a decision to be taken in the same matter by the other. The proceedings in these instances fall into three broad categories.

The first category, treated in section A, includes practices and proceedings in relation to Article 12 (1), limiting the authority of the General Assembly in respect of any dispute or situation while the Council is exercising the functions assigned to it by the Charter. No material for inclusion in this section was found for the period covered by this Supplement. The section, therefore, contains only a note concerning notifications by the Secretary-General to the General Assembly under Article 12 (2) of the Charter. In section B, practices and proceedings relating to the convocation of special sessions of the General Assembly have been dealt with.<sup>1/</sup> The second category of instances in which the responsibility of the Security Council and the General Assembly is mutual, and in which the decision must be taken by the Security Council before that of the General Assembly, i.e., appointment of the Secretary-General<sup>2/</sup> and conditions of accession to the Statute of the International Court of Justice, has been treated in Section C. The third category, including cases where the final decision

depends upon action to be taken by both the Security Council and the General Assembly concurrently, such as the election of members of the International Court of Justice,<sup>3/</sup> has been dealt with in section D. In section E are included two case histories<sup>4/</sup> giving accounts of the relations of the Security Council with subsidiary organs established by the General Assembly.

A continuation of the tabulation of recommendations to the Security Council adopted by the General Assembly in the form of resolutions will be found in section F, and references to the annual and special reports of the Security Council submitted to the General Assembly in section G.

### A. PRACTICES AND PROCEEDINGS IN RELATION TO ARTICLE 12 OF THE CHARTER

#### *Article 12 of the Charter*

"1. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests.

"2. The Secretary-General, with the consent of the Security Council, shall notify the General Assembly at each session of any matters relative to the maintenance of international peace and security which are being dealt with by the Security Council and shall similarly notify the General Assembly, or the Members of the United Nations if the General Assembly is not in session, immediately the Security Council ceases to deal with such matters."

<sup>1/</sup> Case 1.

<sup>2/</sup> Cases 2 and 3.

<sup>3/</sup> Cases 4-7.

<sup>4/</sup> Cases 8 and 9.

[Note: During the period under review there was no discussion in the Security Council on the question of the respective competence of the Security Council and the General Assembly to deal with a matter relating to the maintenance of international peace and security, which the Council had considered and then referred to the General Assembly.]

Notifications to the General Assembly under Article 12 (2) by the Secretary-General, with the consent of the Security Council, of "matters relative to the maintenance of international peace and security which are being dealt with by the Security Council" and of matters with which the Council has ceased to deal, have been drafted on the basis of the "Summary Statement by the Secretary-General on matters of which the Security Council is seized and on the stage reached in their consideration" which is circulated each week by the Secretary-General in accordance with rule 11 of the provisional rules of procedure.

The notification issued before each regular session of the General Assembly contains the same agenda items as those in the current Summary Statement, except that certain items in the Statement which are not considered as "matters relative to the maintenance of international peace and security" for the purpose of Article 12 (2) are excluded from the notification, e.g., rules of procedure of the Council, applications for membership, and the application of Articles 87 and 88 with regard to strategic areas. In addition, the notification contains a list of any items with which the Council has ceased to deal since the previous session of the General Assembly.<sup>5/</sup>

<sup>5/</sup> In the notifications issued before the convening of the sixteenth and eighteenth sessions of the General Assembly (A/4875, 16 September 1961; and A/5517, 16 September 1963) there were no items listed with which the Security Council had ceased to deal. In the notification issued before the convening of the fourteenth session (A/4216, 14 September 1959), among the matters of which the Council remained seized and which were not discussed was listed the following item: "Letter dated 17 July 1958 from the representative of Jordan to the President of the Security Council concerning: 'Complaint by the Hashemite Kingdom of Jordan of interference in its domestic affairs by the United Arab Republic.'" Under that item the following was stated: "It will be recalled that, on 25 November 1958, the Secretary-General notified the General Assembly (A/4008) that the Security Council has ceased to deal with the following matter: 'Letter dated 22 May 1958 from the representative of Lebanon addressed to the President of the Security Council concerning: 'Complaint by Lebanon in respect of a situation arising from the intervention of the United Arab Republic in the internal affairs of Lebanon, the continuance of which is likely to endanger the maintenance of international peace and security.'" In the notification issued before the convening of the fifteenth session (A/4493, 15 September 1960), among the matters which had been discussed during the period since the previous notification under the heading: "Letter dated 13 July 1960 from the Minister for Foreign Affairs of the Union of Soviet Socialist Republics addressed to the Secretary-General," the following was included: "At the 883rd meeting of the Security Council on 26 July 1960, the President stated that the Council had concluded its consideration of this item"; and under the heading: "Letter dated 5 September 1960 from the First Deputy Minister for Foreign Affairs of the Union of Soviet Socialist Republics addressed to the President of the Security Council," the following was included: "At the 895th meeting of the Security Council on 9 September 1960, the President stated that the Council had disposed of the matter." In the notification issued before the convening of the seventeenth session of the General Assembly (A/5224, 17 September 1962), among the matters discussed during the period since the previous notification, under the heading: "Letter dated 8 March 1962 from the Permanent Representative of Cuba addressed to the President of the Security Council," the following was included: "At the 998th meeting of the Security Council on 23 March 1962, the President stated that the consideration of this matter had been terminated."

Matters being dealt with by the Security Council have been listed in the notification, since 1951, in two categories: (1) matters which are being dealt with by the Council and which have been discussed during the period since the last notification; and (2) matters of which the Council remains seized but which have not been discussed since the last notification.<sup>6/</sup>

Since 1947, the consent of the Council required by Article 12 (2) has been obtained through the circulation by the Secretary-General to the members of the Council of copies of draft notifications.]

## B. PRACTICES AND PROCEEDINGS IN RELATION TO THE CONVOCATION OF A SPECIAL SESSION OF THE GENERAL ASSEMBLY

### *Article 20 of the Charter*

"The General Assembly shall meet in regular annual sessions and in such special sessions as occasion may require. Special sessions shall be convoked by the Secretary-General at the request of the Security Council or of a majority of the Members of the United Nations."

[Note: No special session of the General Assembly was convened at the call of the Security Council during the period under review. On one occasion the Security Council called an emergency special session of the General Assembly. In the decision adopted by the Council specific reference to resolution 377 A (V)<sup>7/</sup> was made and the decision stated that the lack of unanimity of the permanent members of the Council had prevented it from exercising its primary responsibility for the maintenance of international peace and security. The relevant proceedings of the Council are set forth in the case history entered below.]

<sup>6/</sup> In the notifications issued before the convening of the fourteenth, fifteenth, sixteenth, seventeenth and eighteenth sessions of the General Assembly (A/4216, 14 September 1959; A/4493, 15 September 1960; A/4875, 16 September 1961; A/5224, 17 September 1962; A/5517, 16 September 1963), among the matters which had not been discussed by the Security Council during the period since the previous notifications, but of which the Council remained seized, the following agenda item was listed: "The situation in Hungary," which was dealt with, during the period under review, at the fourteenth, fifteenth, sixteenth and seventeenth sessions of the General Assembly. In the notifications, issued before the convening of the sixteenth and seventeenth sessions, among the matters which had been discussed by the Council during the period since the last notification was listed the following agenda item: "Letter dated 13 July 1960 from the Secretary-General of the United Nations addressed to the President of the Security Council," which was dealt with under the heading: "Question considered by the Security Council at its 906th meeting on 16 September 1960" at the fourth emergency special session of the General Assembly, and under the heading: "The situation in the Republic of the Congo" at the fifteenth session of the General Assembly.

<sup>7/</sup> The relevant passage from resolution 377 A (V) follows: "The General Assembly, ... 1. Resolves that if the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures, including in the case of a breach of the peace or act of aggression the use of armed force when necessary, to maintain or restore international peace and security. If not in session at the time, the General Assembly may meet in emergency special session within twenty-four hours of the request therefor. Such emergency special session shall be called if requested by the Security Council on the vote of any seven members, or by a majority of the Members of the United Nations."

Under the "Uniting for peace" resolution, emergency special sessions of the General Assembly are convened upon the request of the Security Council, on the vote of any seven of the members.

In the case presented below a negative vote was cast by a permanent member on the ground that resolution 377 A (V) was adopted in violation of the Charter, which requires unanimity in the Security Council in the matter of convening emergency sessions.]

## CASE 1

At the 906th meeting on 17 September 1960, in connexion with the situation in the Republic of the Congo, after the Security Council had voted upon, and not adopted, a joint draft resolution<sup>8/</sup> on the substance of the question submitted by Ceylon and Tunisia, the representative of the United States submitted the following draft resolution:<sup>9/</sup>

"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."

The representative of Poland observed that it was not true as stated in the draft resolution that the Security Council was prevented from exercising its primary responsibility for the maintenance of international peace and security. Neither was it true that there was no decision on the question of the Congo. There were three approved resolutions which had to be implemented.

The representative of the USSR stated:

"... we cannot, in this vote, be guided by resolution 377 A (V) to which the draft resolution refers, since that resolution was adopted in violation of the United Nations Charter which requires unanimity in the Security Council in the matter of convening emergency sessions.

"We shall therefore regard the adoption of any such resolution as illegal, unless it is approved unanimously by all the permanent members of the Security Council."<sup>10/</sup>

Decision: *The Council adopted the United States draft resolution by 8 votes in favour to 2 against, with 1 abstention.*<sup>11/</sup>

<sup>8/</sup> S/4523, O.R., 15th year, Suppl. for July-Sept. 1960, pp. 172-173.

<sup>9/</sup> S/4525, 906th meeting: para. 173.

<sup>10/</sup> For texts of relevant statements see:

<sup>906th meeting:</sup> Poland, para. 188; USSR, paras. 195-196.

<sup>11/</sup> <sup>906th meeting:</sup> para. 198. Resolution S/4526, O.R., 15th year, Suppl. for July-Sept. 1960, p. 174.

## C. PRACTICES AND PROCEEDINGS IN RELATION TO ARTICLES OF THE CHARTER INVOLVING RECOMMENDATIONS BY THE SECURITY COUNCIL TO THE GENERAL ASSEMBLY

## 1. Appointment of the Secretary-General

*Article 97 of the Charter*

"The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization."

[Note: In accordance with rule 48 of the provisional rules of procedure, the meetings of the Security Council to consider the question of a recommendation to the General Assembly regarding the appointment of a Secretary-General have been held in private, and the Council has voted by secret ballot. A communiqué circulated at the end of each meeting, in accordance with rule 55, has indicated the stage reached in the consideration of the recommendation. During the period under review, the Council considered and unanimously adopted two recommendations of this kind.]

## CASE 2

At the 972nd meeting held in private on 3 November 1961, the Security Council considered the problem of filling the office of the Secretary-General for the term fixed by the General Assembly, expiring 10 April 1963, and unanimously decided to recommend to the General Assembly that the permanent Representative of Burma to the United Nations, Ambassador U Thant be appointed as acting Secretary-General of the United Nations for the unexpired portion of the term previously fixed by the General Assembly. On the same date, the President (USSR) transmitted this recommendation to the President of the General Assembly and by letter dated 3 November 1961 communicated to U Thant the Council's decision to recommend his appointment as acting Secretary-General for the unexpired portion of the term of office of the Secretary-General as fixed by the General Assembly, expiring 10 April 1963.<sup>12/</sup>

## CASE 3

At the 1026th meeting held in private on 30 November 1962, the Security Council considered the question of a recommendation for the appointment of the Secretary-General of the United Nations, and unanimously decided to recommend to the General Assembly that U Thant be appointed as Secretary-General of the United Nations for a term expiring on 3 November 1966.<sup>13/</sup> On the same day, the President (United Arab Republic) transmitted this recommendation to the President of the General Assembly.<sup>14/</sup>

\*\*2. Conditions of accession to the Statute of the International Court of Justice

<sup>12/</sup> 972nd meeting: official communiqué.

<sup>13/</sup> 1026th meeting: official communiqué.

<sup>14/</sup> A/5322.

\*\*3. Conditions under which a non-member State, party to the Statute, may participate in electing members of the International Court of Justice

D. PRACTICES AND PROCEEDINGS IN RELATION TO THE ELECTION OF MEMBERS OF THE INTERNATIONAL COURT OF JUSTICE

STATUTE OF THE INTERNATIONAL COURT OF JUSTICE

*Article 4*

"1. The members of the Court shall be elected by the General Assembly and by the Security Council from a list of persons nominated by the national groups in the Permanent Court of Arbitration ..."

*Article 8*

"The General Assembly and the Security Council shall proceed independently of one another to elect the members of the Court."

*Article 10*

"1. Those candidates who obtain an absolute majority of votes in the General Assembly and in the Security Council shall be considered as elected.

"2. Any vote of the Security Council, whether for the election of judges or for the appointment of members of the conference envisaged in Article 12, shall be taken without any distinction between permanent and non-permanent members of the Security Council.

"3. In the event of more than one national of the same state obtaining an absolute majority of the votes both of the General Assembly and of the Security Council, the eldest of these only shall be considered as elected."

*Article 11*

"If, after the first meeting held for the purpose of the election, one or more seats remain to be filled, a second and, if necessary, a third meeting shall take place."

*Article 12*

"1. If, after the third meeting, one or more seats still remain unfilled, a joint conference consisting of six members, three appointed by the General Assembly and three by the Security Council, may be formed at any time at the request of either the General Assembly or the Security Council, for the purpose of choosing by the vote of an absolute majority one name for each seat still vacant, to submit to the General Assembly and the Security Council for their respective acceptance.

"2. If the joint conference is unanimously agreed upon any person who fulfils the required conditions, he may be included in its list, even though he was not included in the list of nominations referred to in Article 7.

"3. If the joint conference is satisfied that it will not be successful in procuring an election, those members of the Court who have already been elected shall, within a period to be fixed by the Security Council, proceed to fill the vacant seats by selection

from among those candidates who have obtained votes either in the General Assembly or in the Security Council.

"4. In the event of an equality of votes among the judges, the eldest judge shall have a casting vote."

*Article 14*

"Vacancies shall be filled by the same method as that laid down for the first election, subject to the following provision: the Secretary-General shall, within one month of the occurrence of the vacancy, proceed to issue the invitations provided for in Article 5, and the date of the election shall be fixed by the Security Council."

PROVISIONAL RULES OF PROCEDURE

*Rule 61. Relations with other United Nations organs*

"Any meeting of the Security Council held in pursuance of the Statute of the International Court of Justice for the purpose of the election of members of the Court shall continue until as many candidates as are required for all the seats to be filled have obtained in one or more ballots an absolute majority of votes."

CASE 4

At the 849th meeting on 29 September 1959, the Security Council proceeded to the election of a member of the International Court of Justice to fill the vacancy in the Court caused by the death of Judge José Gustavo Guerrero.<sup>15/</sup> Prior to the balloting, the President stated that in accordance with Article 10, paragraph 1, of the Statute of the Court, the candidate who obtained an absolute majority of votes in the Council and in the General Assembly would be considered elected as a member of the Court.

A vote was then taken by secret ballot which resulted in the election of Mr. Ricardo J. Alfaro, who obtained an absolute majority of votes in the Council.<sup>16/</sup> After stating that he would transmit the result of the voting to the President of the General Assembly, the President (Italy) suspended the meeting.

When the meeting was resumed the President announced that he had received a letter from the President of the General Assembly informing him that Mr. Ricardo J. Alfaro had received the required majority in the voting in the General Assembly, and stated that he was sure that the President of the General Assembly would declare Mr. Alfaro elected to the International Court of Justice.<sup>17/</sup>

CASE 5

At the 864th meeting on 31 May 1960, the Security Council noted with regret the death of Sir Hersch Lauterpacht and decided, under Article 14 of the Statute, that an election to fill the vacancy for the remainder of the term of Judge Lauterpacht should

<sup>15/</sup> S/4204 and Corr.1, S/4205 (also issued as documents A/4179 and Corr.1 and A/4180, GAOR, 14th Session, a.l. 18).

<sup>16/</sup> 849th meeting: para. 4.

<sup>17/</sup> 849th meeting: paras. 7, 8.

take place during the fifteenth session of the General Assembly.<sup>18/</sup>

At the 909th meeting on 16 November 1960, to fill the vacancy, the Council elected Sir Gerald Fitzmaurice, who also received an absolute majority of votes in the General Assembly.<sup>19/</sup>

#### CASE 6

At the 909th meeting on 16 November 1960, the Security Council proceeded to the election of five members of the International Court of Justice to fill the seats which were to become vacant on 5 February 1961.<sup>20/</sup> Prior to the balloting, the President (Tunisia) stated:

"... I should like to remind you that the Secretary-General's memorandum [S/4457] indicates the procedure to be followed for the election. According to Article 10, paragraph 1 of the Statute of the Court, those candidates who obtain an absolute majority of votes in the General Assembly and in the Security Council shall be considered as elected. Therefore, those candidates who receive a minimum of six votes in the Council will be considered as elected by the Council. If more than five candidates obtain the required majority, the procedure which has been followed in the past is outlined in paragraph 14 of the Secretary-General's memorandum. This procedure is in harmony with rule 61 of the provisional rules of procedure of the Security Council."<sup>21/</sup>

A vote was then taken by secret ballot and five candidates obtained the required majority in the Council. After stating that he would transmit the result of the election to the President of the General Assembly, the President suspended the meeting. When the meeting was resumed, the President announced that he had been notified by the President of the General Assembly that five candidates had been elected by the General Assembly to fill the vacancies. Four of the five candidates who received a majority of votes in the Assembly also obtained the required majority in the Council and were therefore declared elected.<sup>22/</sup> The President then declared that, in view of the fact that the General Assembly and the Security Council were not in agreement about the fifth candidate, under rule 61 of the provisional rules of procedure, the Security Council had to hold a further meeting to fill the fifth vacancy.

At the 910th meeting on 17 November 1960, the Council proceeded to an election to fill the fifth seat. On the first ballot the Council elected to fill the vacancy a candidate who also received an absolute majority of votes in the Assembly.<sup>23/</sup>

#### CASE 7

At the 1071st meeting on 21 October 1963, the Security Council proceeded to the election of five members of the International Court of Justice to fill

five seats which were to become vacant on 5 February 1964. Prior to the balloting, the President (USSR) drew the attention of the Council to a memorandum<sup>24/</sup> of the Secretary-General in which the procedure to be followed in the election was outlined.

A vote was then taken by secret ballot which resulted in more than five candidates receiving the required majority.<sup>25/</sup> The President declared that the Council had to proceed to another ballot on all the candidates, in accordance with the procedure set out in paragraph 14 of the memorandum of the Secretary-General:

"Cases have arisen in which more than the required number of candidates have received an absolute majority on the same ballot. In the election of five judges at the 567th meeting of the Security Council on 6 December 1951, on the first ballot six candidates received an absolute majority. After a discussion, the Council voted to hold a new vote on all the candidates and a second ballot produced a majority for only five."

It was not until the third ballot that only five candidates obtained the required majority in the Council.<sup>26/</sup> The President then informed the Council that he would transmit the result of the voting to the President of the General Assembly. Before suspending the meeting, he told the Council that the meeting would be resumed when the President of the General Assembly informed the Council of the result obtained in the Assembly. When the meeting was resumed, the President announced that he had been notified by the President of the General Assembly that, at its 1249th plenary meeting on the same date, five candidates had obtained the required majority of votes in the Assembly. Four of these candidates had already received the required majority in the Council and therefore were declared elected. He added that the Council would hold a further meeting to fill the remaining vacancy.<sup>27/</sup>

At the 1072nd meeting on the same date, the Security Council met specially for the purpose of filling the fifth vacancy. After the election of the fifth candidate who obtained the required majority in the Council, the President suspended the meeting. When the meeting was resumed, the President announced<sup>28/</sup> that he had been notified by the President of the General Assembly that the same candidate had also obtained the required majority of votes in the Assembly and had therefore been declared elected.<sup>29/</sup>

#### E. RELATIONS WITH SUBSIDIARY ORGANS ESTABLISHED BY THE GENERAL ASSEMBLY

[Note: The first case history included in this section gives an account of an action of the Security Council

<sup>18/</sup> 864th meeting: paras. 94-96.

<sup>19/</sup> 909th meeting: paras. 9, 11.

<sup>20/</sup> 909th meeting: para. 12.

<sup>21/</sup> 909th meeting: para. 14.

<sup>22/</sup> 909th meeting: paras. 17-18.

<sup>23/</sup> 910th meeting: paras. 2, 5-6.

<sup>24/</sup> S/5390 (also issued as A/5480, GAOR, Eighteenth Session, Annexes, a.i. 15).

<sup>25/</sup> 1071st meeting: para. 8.

<sup>26/</sup> 1071st meeting: para. 11.

<sup>27/</sup> 1071st meeting: paras. 12-14.

<sup>28/</sup> 1072nd meeting: para. 1-3.

<sup>29/</sup> In a letter to the President of the Security Council dated 22 October 1963, the representative of Lebanon stated that the voting procedure followed in accordance with paragraph 14 of the memorandum of the Secretary-General (S/5390) at the 1071st meeting of the Security Council

in ordering an investigation for which, subsequently, preliminary steps were taken by the Secretary-General, and of a later decision of the General Assembly setting up a subsidiary organ of its own to conduct the respective investigation.

The second case history deals with a decision of the Security Council requesting that a subsidiary organ established by the General Assembly implement its mandate without delay and report also to the Council.]

#### CASE 8

At the 942nd meeting on 21 February 1961, in connexion with the situation in the republic of the Congo, the Security Council decided that "an immediate and impartial investigation be held in order to ascertain the circumstances of the death of Mr. Lumumba and his colleagues ...".<sup>30/</sup>

In his report<sup>31/</sup> dated 27 February 1961 on certain steps taken in regard to the implementation of Security Council resolution S/4741 of 21 February 1961, the Secretary-General informed the Security Council that the members of the Advisory Committee were of the opinion that, as a first step toward implementing part A, operative paragraph 4, of the resolution, a panel of three independent judges—an African serving as the Chairman, an Asian and a Latin American—should be appointed.

By report<sup>32/</sup> dated 20 March 1961, the Secretary-General informed the Security Council that the Advisory Committee had recommended that the terms of reference of the Investigation Commission envisaged in part A, operative paragraph 4 of the Security Council resolution of 21 February 1961 should be to hold an impartial investigation in order to ascertain the circumstances of the death of Messrs. Lumumba, Npolo and Okito and to fix responsibility therefor. The Advisory Committee had further recommended that the Commission be composed of four members

cil in connexion with the election of five candidates of the International Court of Justice was "incorrect, unjust and undemocratic". This procedure resulted in failure to elect Mr. Fouad Ammoun of Lebanon, although he had received 7 votes on the first ballot in the Security Council and 62 votes on the first ballot in the General Assembly, whereas two of the candidates finally elected had received fewer votes than Mr. Ammoun on the first ballot both in the Security Council and in the General Assembly, namely 6 votes each on the first ballot in the Security Council and 58 and 42 votes on the first ballot in the General Assembly, respectively (S/5445, O.R., 18th year, Suppl. for Oct.-Dec. 1963, pp. 42-43). A memorandum circulated by the Secretariat on 31 October 1963 gave an account of how the current practice had been established. It dealt with the situations which had arisen at the 567th and 681st meetings on 6 December 1951 and 7 October 1954, respectively. These had been dealt with in the same manner as in the current case (S/5449, *ibid.*, pp. 84-85). In a further letter to the Secretary-General dated 21 November 1963, the representative of Lebanon reiterated his belief that the procedure adopted at the 1071st meeting of the Security Council in connexion with the election of five candidates of the International Court of Justice "should be revised in the future in the interests of justice and of maintaining confidence in the democratic procedures and rules of the United Nations, and particularly the confidence of the small nations." (S/5461, *ibid.*, pp. 93-97).

<sup>30/</sup> Resolution S/4741, part A, oper. para. 4, O.R., 16th year, Suppl. for Jan.-March 1961, pp. 147-148.

<sup>31/</sup> S/4752, *ibid.*, pp. 176-190, para. 9.

<sup>32/</sup> S/4771 and Add.1-3, *ibid.*, pp. 259-261.

nominated by the Governments of Burma, Ethiopia, Mexico and Togo.

By resolution 1601 (XV) adopted at the 985th meeting on 15 April 1961, the General Assembly, recalling part A, operative paragraph 4 of the Security Council resolution of 21 February 1961, and taking note of the Secretary-General's report S/4771 and Add.1, decided to establish a Commission of Investigation consisting of the following members: Justice U Aung Khine (Burma), Mr. Teschome Hailemariam (Ethiopia), Mr. Salvador Martínez de Alva (Mexico) and Mr. Ayité d'Almeida (Togo) and requested the Commission to proceed as early as possible to carry out the task entrusted to it.

By letter<sup>33/</sup> dated 12 June 1961 the acting Chairman of the Commission of Investigation established under the terms of General Assembly resolution 1601 (XV) informed the President of the Security Council of the state of its work.

On 11 November 1961 the Commission of Investigation submitted its report.<sup>34/</sup>

#### CASE 9

At the 950th meeting on 6 June 1961, in connexion with the situation in Angola, the representative of Liberia introduced a draft resolution<sup>35/</sup> submitted jointly by Ceylon and the United Arab Republic requesting that the Sub-Committee appointed under General Assembly resolution 1603 (XV) implement its mandate without delay and report to the Security Council and the General Assembly as soon as possible. The Sub-Committee, composed of five members appointed by the President of the General Assembly, had been instructed to examine the statements made before the Assembly concerning Angola, to receive further statements and documents and to conduct such inquiries as it may deem necessary.

At the 956th meeting on 9 June 1961, after the adoption by the Council of amendments<sup>36/</sup> proposed by the representative of Chile which extended the scope of the preamble and expanded the operative part of the resolution to encourage a solution of the problem by peaceful means, the joint draft resolution submitted by Ceylon, Liberia and the United Arab Republic, as amended, was adopted.<sup>37/</sup>

#### F. RECEPTION OF RECOMMENDATIONS TO THE SECURITY COUNCIL ADOPTED BY THE GENERAL ASSEMBLY IN THE FORM OF RESOLUTIONS

[Note: The Security Council, in agreeing to consider a General Assembly recommendation, has done so by placing the recommendation of the Assembly on the Council's agenda.]

<sup>33/</sup> S/4836, O.R., 16th year, Suppl. for April-June 1961, p. 68.

<sup>34/</sup> S/4976, O.R., 16th year, Suppl. for Oct.-Dec. 1961, pp. 67-129. Also distributed to the General Assembly as document A/4964.

<sup>35/</sup> S/4828, oper. paras. 2, 4, 950th meeting; para. 38.

<sup>36/</sup> S/4833/Rev.1, 955th meeting; paras. 65-66 and 68.

<sup>37/</sup> 956th meeting; para. 159. Resolution S/4835, O.R., 16th year, Suppl. for April-June 1961, p. 67.



## TABULATION OF RECOMMENDATIONS

Entry No.	General Assembly resolution	Subject of recommendation	Initial proceedings of the Security Council
1 . . . . .	1602 (XV) 19 April 1961	Admission of new Members (Mongolia and Mauritania)	None <sup>a/</sup>
2 . . . . .	1746 (XVI) 27 June 1962	Admission of new Members (Rwanda and Burundi)	None <sup>b/</sup>
3 . . . . .	1761 (XVII) 6 November 1962	The policies of <u>apartheid</u> of the Government of the Re- public of South Africa	Included in the agenda under a letter dated 11 July 1963 sub- mitted by 32 Member States at the 1040th meeting on 22 July 1963. The consideration of the item began at the 1050th meeting on 31 July 1963
4 . . . . .	1807 (XVII) 14 December 1962	Territories under Portuguese administration	Included in the agenda under a letter dated 11 July 1963 sub- mitted by 32 Member States at the 1040th meeting on 22 July 1963
5 . . . . .	1810 (XVII) 17 December 1962	The situation with regard to the implementation of the Declaration on the granting of independence to colonial countries and peoples	Not placed on the provisional agenda
6 . . . . .	1819 (XVII) 18 December 1962	The situation in Angola	Included in the agenda at the 1040th meeting on 22 July 1963

<sup>a/</sup> The General Assembly recommendation was not included in the agenda of the Security Council. References to it were made at the 971st meeting on 25 October 1961 in statements by France (para. 81), Liberia (para. 90), USSR (para. 13), United Kingdom (para. 211), and United States (para. 39).

<sup>b/</sup> The General Assembly recommendation was not included in the agenda of the Security Council. Reference to it was made at the 1017th meeting on 26 July 1962 in a statement by the President (Ghana) at the beginning of the meeting (para. 6).

## G. REPORTS OF THE SECURITY COUNCIL TO THE GENERAL ASSEMBLY

*Article 24 (3) of the Charter*

"The Security Council shall submit annual and, when necessary, special reports to the General Assembly for its consideration."

[*Note:* In accordance with Article 24 (3), the Security Council has continued, during the period under review, to submit annual reports to the General Assembly.<sup>38/</sup> In addition to transmitting to the General Assembly its recommendations concerning several applications for membership,<sup>39/</sup> pursuant to para-

graph 2 of rule 60 of its provisional rules of procedure, the Security Council has, following its 911th meeting on 3/4 December 1960 and also following its 985th meeting on 30 November 1961, submitted special reports<sup>40/</sup> to the General Assembly concerning the question of admission of a new Member, in accordance with paragraph 3 of rule 60 of the provisional rules of procedure.]

<sup>38/</sup> Annual reports were approved by the Security Council at the following meetings held in private: 14th report, 846th meeting, 20 August 1959; 15th report, 899th meeting, 14 September 1960; 16th report, 967th meeting, 12 September 1961; 17th report, 1019th meeting, 13 September 1962; and 18th report, 1070th meeting, 16 September 1963.

<sup>39/</sup> Cameroon (A/4358, 1 February 1960); Togo (A/4372, 1 June 1960); Federation of Mali (A/4387, 29 June 1960; later became two separate States, Mali and Senegal which were recommended separately; Malagasy (A/4388, 30 June 1960); Somalia (A/4393, 6 July 1960); Congo (Leopoldville) (A/4398, 8 July 1960); Dahomey (A/4453, 24 August

1960); Niger (A/4454, 24 August 1960); Upper Volta (A/4455, 24 August 1960); Ivory Coast (A/4456, 24 August 1960); Chad (A/4457, 24 August 1960); Congo (Brazzaville) (A/4458, 24 August 1960); Gabon (A/4459, 24 August 1960); Central African Republic (A/4460, 24 August 1960); Cyprus (A/4462, 24 August 1960); Senegal (A/4513, 28 September 1960); Mali (A/4514, 28 September 1960); Nigeria (A/4533, 7 October 1960); Sierra Leone (A/4888, 26 September 1961); Mongolian People's Republic (A/4940, 25 October 1961); Islamic Republic of Mauritania (A/4941, 25 October 1961); Tanganyika (A/5033, 14 December 1961); Burundi (A/5151, 27 July 1962); Rwanda (A/5152, 27 July 1962); Jamaica (A/5188, 13 September 1962); State of Trinidad and Tobago (A/5189, 13 September 1962); Algeria (A/5251, 4 October 1962); Uganda (A/5258, 15 October 1962); Kuwait (A/5417, 8 May 1963); Zanzibar (A/5677, 16 December 1963); and Kenya (A/5678, 16 December 1963).

<sup>40/</sup> A/4656 (GAOR, 15th session, Annexes, a.i. 20) and A/5012 (GAOR, 16th session, Annexes, a.i. 92).

## Part II

## \*\*RELATIONS WITH THE ECONOMIC AND SOCIAL COUNCIL

## Part III

## RELATIONS WITH THE TRUSTEESHIP COUNCIL

**\*\*A. PROCEDURE UNDER ARTICLE 83 (3) IN APPLICATION OF ARTICLES 87 AND 88 OF THE CHARTER WITH REGARD TO STRATEGIC AREAS UNDER TRUSTEESHIP**

**B. TRANSMISSION TO THE SECURITY COUNCIL BY THE TRUSTEESHIP COUNCIL OF QUESTIONNAIRES AND REPORTS**

During the period under review, no questionnaires have been transmitted to the Security Council by the Trusteeship Council. The reports of the latter body on the exercise of its functions in respect of the strategic areas under trusteeship have, therefore, continued to be based on the revised questionnaire transmitted to the Security Council on 24 July 1953.<sup>41/</sup>

Between 1 January 1959 and 31 December 1963 the Secretary-General transmitted to the Security Council the following reports of the Trusteeship

<sup>41/</sup> S/3065.

Council on the Trust Territory of the Pacific Islands, which has continued to be the only territory designated as a strategic area:

Eleventh Report adopted during the twenty-fourth session of the Trusteeship Council, 6 August 1959.<sup>42/</sup>

Twelfth Report adopted during the twenty-sixth session of the Trusteeship Council, 30 June 1960.<sup>43/</sup>

Thirteenth Report adopted during the twenty-seventh session of the Trusteeship Council, 19 July 1961.<sup>44/</sup>

Fourteenth Report adopted during the twenty-ninth session of the Trusteeship Council, 16 July 1962.<sup>45/</sup>

Fifteenth Report adopted during the thirtieth session of the Trusteeship Council, 25 June 1963.<sup>46/</sup>

<sup>42/</sup> S/4206, O.R., 14th year, Special Supplement No. 1.

<sup>43/</sup> S/4380, O.R., 15th year, Special Supplement No. 1.

<sup>44/</sup> S/4890, O.R., 16th year, Special Supplement No. 1.

<sup>45/</sup> S/5143, O.R., 17th year, Special Supplement No. 1.

<sup>46/</sup> S/5340, O.R., 18th year, Special Supplement No. 1.

## Part IV

## RELATIONS WITH THE INTERNATIONAL COURT OF JUSTICE

*Article 94 of the Charter*

"1. Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.

"2. If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment."

*Article 96 of the Charter*

"1. The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.

"2. Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities."

## STATUTE OF THE INTERNATIONAL COURT OF JUSTICE

*Article 35 of the Statute*

"1. The Court shall be open to the States parties to the present Statute.

"2. The conditions under which the Court shall be open to other states shall, subject to the special provisions contained in treaties in force, be laid down by the Security Council, but in no case shall such conditions place the parties in a position of inequality before the Court.

"..."

*Article 41 of the Statute*

"1. The Court shall have the power to indicate, if it considers that circumstances so require, any provisional measures which ought to be taken to preserve the respective rights of either party.

"2. Pending the final decision, notice of the measures suggested shall forthwith be given to the parties and to the Security Council."

[Note: A proposal by the representative of Cuba<sup>47/</sup> to request an advisory opinion in connexion with the question whether the Organization of American States under the terms of its Charter was a regional agency within the meaning of Chapter VIII of the United Nations Charter, and related questions was formally submitted to the Council during consideration of the Complaint by the Government of Cuba at the 998th meeting on 23 March 1962,<sup>48/</sup> but was not voted on.

<sup>47/</sup> S/5095, O.R., 17th year, Suppl. for Jan.-March 1962, pp. 90-97.

<sup>48/</sup> See chapter XII, Case 25.

## Part V

**\*\*RELATIONS WITH THE MILITARY STAFF COMMITTEE**