

## **Chapter VI**

### **RELATIONS WITH OTHER UNITED NATIONS ORGANS**

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## INTRODUCTORY NOTE

The present chapter, as in previous volumes, deals with relations of the Security Council with all the other organs of the United Nations. Consequently, its scope is broader than that of 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 contains material concerning the relations of the Security Council with the General Assembly (part I), and also brings up to date the account in the previous volumes of the *Repertoire* of the transmission by the Trusteeship Council to the Security Council of questionnaires and reports (part III).

During the period under review, the Security Council requested, for the first time, an advisory opinion from the International Court of Justice. The material

treated under the heading "Relations with the International Court of Justice" (part IV) deals with the proceedings of the Security Council which resulted in the adoption of a draft resolution requesting the Court's opinion, the transmission to the Security Council by the Secretary-General of that opinion, and the subsequent action taken by the Security Council on it.

No material has been found for the period under review which would require treatment under parts II and V relating respectively to relations with the Economic and Social Council 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 this part the arrangement of the material remains essentially the same as in the previous volumes of the *Repertoire*. However, a new section C has been included which deals with the question of referral by the Security Council, under resolution 377 (V), to a regular session of the General Assembly of an item being considered by the Council.<sup>1</sup>

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

The first category, treated in section A, includes practices and proceedings in relation to Article 12, paragraph 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, paragraph 2, of the Charter.<sup>2</sup>

In the second category of instances, treated in section D, in which the responsibilities of the Security Council and of the General Assembly are mutual, and in which the decision must be taken by the Security Council before the General Assembly, one case concerning the appointment of the Secretary-General has been entered.<sup>3</sup> There was no material for the period under review bearing on conditions of accession to the Statute of the International Court of Justice. However, a new sub-heading has been set in connexion with the participation of States not Members of the United Nations but parties to the Statute of the International Court of Justice in the amendment of the Statute. Within the context of this new sub-heading one case has been treated.<sup>4</sup>

The third category, dealing with cases where the final decision depends upon action to be taken by both the organs concurrently, such as the election of Members of the International Court of Justice, is treated in section E.<sup>5</sup> Section F includes two cases giving account of the relations of the Security Council with subsidiary organs established by the General Assembly.<sup>6</sup> Section G contains a tabulation of recommendations to the Security Council adopted by the General Assembly in the form of resolutions. Section H contains references to the annual and special reports of the Security Council to the General Assembly.

<sup>1</sup> Case 1.

<sup>2</sup> For references to Article 12 in the proceedings of the Council connected with resolution 303 (1971) see, in this chapter, Case 1.

<sup>3</sup> Case 2.

<sup>4</sup> Case 3.

<sup>5</sup> Case 4.

<sup>6</sup> Cases 5 and 6.

## 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."

[*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 Security Council had considered and then referred to the General Assembly.

Notifications to the General Assembly under Article 12, paragraph 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, paragraph 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 issued before each regular session, contains a list of any items with which the Council has ceased to deal since the previous session of the General Assembly.<sup>7</sup>

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

Since 1947, the consent of the Council required by Article 12, paragraph 2, has been obtained through

<sup>7</sup> No items were removed from the list of matters of which the Council was seized during the period under review. See the Secretary-General's notifications issued before the twenty-fourth, twenty-fifth and twenty-sixth sessions of the General Assembly (A/7670, 15 September 1969; A/8064, 15 September 1970, and A/8396, 20 September 1971).

the circulation, by the Secretary-General to the members of the Council, of copies of the draft notifications.]

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

[*Note:* No special session of the General Assembly was convened at the call of the Security Council during the period under review. Nor did the Security Council call an emergency special session of the General Assembly.]

## C. REFERRAL, UNDER RESOLUTION 377 A (V), TO THE GENERAL ASSEMBLY OF AN ITEM BEING CONSIDERED BY THE SECURITY COUNCIL

[*Note:* On one occasion<sup>8</sup> the Security Council decided to refer an item which it had under its consideration to the General Assembly, as provided for in General Assembly resolution 377 A (V) of 3 November 1950.<sup>9</sup> Since the General Assembly was in session at the time, the question of convening an emergency special session had not arisen.

The decision adopted stated that the lack of unanimity of the permanent members of the Security Council had prevented it from exercising its primary responsibility for the maintenance of international peace and security. There were no negative votes cast when the decision to refer the item to the General Assembly was taken by the Security Council. Three permanent members of the Council abstained in the vote. The resolution adopted by the Council defined the matter to be dealt with only by reference to the agenda of the Council and made explicit reference to General Assembly resolution 377 A (V). The relevant proceedings of the Council on this occasion are set forth in the case history given below.]

### CASE 1

At the 1608th meeting on 6 December 1971, in connexion with the situation in the India/Pakistan sub-continent, the representative of Somalia pointed out that the Council had had three days of intensive consultations on a number of draft resolutions trying to find a formula acceptable to it as a whole. However, it had not yet reached that agreement. His own delegation, in association with a number of other delegations, in an attempt to formulate a draft resolution which would not only reflect the concern of the United Nations in the present question but also be based upon the Purposes and Principles of the Charter, had submitted a draft resolution, contained in document S/10423,

<sup>8</sup> See Case 1 below.

<sup>9</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 amendment to Article 27 of the Charter, which came into force in 1965, decisions of the Security Council on procedural matters shall be made on the affirmative vote of any nine of its members.)

which, however, had failed to be adopted due to the negative vote of a permanent member of the Security Council. It nevertheless had the support of the majority of the members of the Council. Meanwhile, the conflagration in the area was continuing. In the circumstances, the United Nations could not remain inactive and could not be diverted from its obligations for the maintenance of international peace and security. After quoting from General Assembly resolution 377 (V), the representative of Somalia introduced the following draft resolution<sup>10</sup> jointly sponsored by the representatives of Argentina, Burundi, Japan, Nicaragua, Sierra Leone and Somalia:

*"The Security Council,*

*"Having considered the item on the agenda of its 1606th meeting, as contained in document S/Agenda/1606,*

*"Taking into account that the lack of unanimity of its permanent members at the 1606th and 1607th meetings of the Security Council has prevented it from exercising its primary responsibility for the maintenance of international peace and security,*

*"Decides to refer the question contained in document S/Agenda/1606 to the General Assembly at its twenty-sixth session, as provided for in General Assembly resolution 377 A (V) of 3 November 1950."*

The representative of Argentina, after enumerating the draft resolutions which failed to be adopted by the Council and the instances in which a negative vote was cast by a permanent member,<sup>11</sup> stated that the Security Council, because of the many and complex facts of the conflict, had been unable to take a decision providing peace in the region. Recognizing that fact, the Council should transfer responsibility immediately to the General Assembly.

The representative of Burundi contended that there being no solution forthcoming from the Security Council, it was imperative for the Council to discharge its duty by transferring the question to the General Assembly.

The representative of the United States said that because of the exercise of the veto by one of the permanent members, the Council had been unable to adopt measures to restore peace and security in South Asia or even to call for a halt to the fighting. However, there were additional steps that could be taken and which would allow the full membership of the United Nations to examine the question envisaged in the draft resolution before the Council.

The representative of the USSR stated that the referral of the question to the General Assembly would constitute an indication of the wish to avoid finding a solution on the matter and the adoption of measures to eliminate the main source of conflict on the India/Pakistan subcontinent. The five-Power draft resolution (S/10429) was neither correct in terms of substance nor from the procedural standpoint: any resolutions adopted by the General Assembly were only recommendations, whereas, resolutions of the Security Council were mandatory decisions which, under the Charter, must be implemented by Member States. The attempt to transfer the question to the General Assembly was

only to confuse the issue and to avoid adopting realistic measures that the present situation demanded on the subcontinent.

The representative of France stated that the procedure contained in the "Uniting for peace" resolution was very clear when the Assembly was not in session because as that resolution stated, the Assembly could be convened in an emergency special session. However, when the Assembly was already in session the procedure contained in General Assembly resolution 377 (V) was equivocal. Now that the Assembly was in session and the resolution was vague on which procedure to be followed, it would be sufficient to seize the matter under Article 12 of the Charter, that is, without recourse to the "Uniting for peace" resolution. Hence, his delegation had interpreted the draft resolution before the Council as a request to the General Assembly to take up the matter, not so much in terms of the text of the "Uniting for peace" resolution but under Article 12 of the Charter. In this connexion, he also observed that the phrase "decides to refer the question . . . to the twenty-sixth session of the General Assembly" contained in operative paragraph 1 of the draft resolution was not pertinent. It would be correct if an assembly referred a question to a subordinate organ, but the Assembly was not a subordinate body to the Council any more than the Council was subordinate to the General Assembly. Since they were two different organs, each having different functions and powers, it would be more correct to say "to bring the question contained . . . before the General Assembly". He pointed out that the question of form had a consequence: the fact of bringing the matter before the General Assembly in no way implied that the Council was no longer seized of it. Quite the contrary, regardless of the debates in the General Assembly or its results, the question remained before the Council and therefore the consultations might continue. Turning to the substantive part of the draft resolution, the representative added that the proposal to bring the question to the General Assembly would cause new delays in order to lead to the adoption of a resolution which would be only a recommendation. The powers of the General Assembly should not be confused with those of the Security Council. Nevertheless, his delegation would not oppose the draft resolution, giving a chance to those who believed to find a solution in the Assembly debate. However, the situation was likely to deteriorate and the Council sooner or later would have to shoulder again its responsibility in the matter.

**Decision:** At the 1608th meeting on 6 December 1971, the Council adopted the joint draft resolution by 11 votes in favour, none against and four abstentions.<sup>12</sup>

After the vote the representative of the United Kingdom stated that it was the nature of the international situation itself that had imposed limitations on the Security Council and had made it impossible for members of the Council to reach agreement and a discussion of the item in the General Assembly was not likely to change matters or immediately overcome the limitations faced in its consideration by the Security Council.<sup>13</sup>

<sup>12</sup> 1608th meeting, para. 322; resolution 307 (1971).

<sup>13</sup> For text of relevant statements, see: 1608th meeting: Argentina, paras. 139-148; Burundi, paras. 149-157; France, paras. 302-306; Somalia, paras. 128-138; USSR, paras. 281-282; United Kingdom, para. 325; United States, paras. 202-211.

<sup>10</sup> S/10429, adopted without change as resolution 303 (1971).

<sup>11</sup> See in chapter VIII, pp. 156-160.

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

**1. Appointment of the Secretary-General**

*"Article 97 of the Charter*

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

[*Note:* In accordance with rule 48 of the provisional rules of procedure, the meetings of the Security Council to consider the question of a recommendation to the General Assembly regarding the appointment of the Secretary-General have been held in private, and the Council has voted by secret ballot. A communiqué circulated at the end of each meeting, in accordance with rule 55, has indicated the stage reached in the consideration of the recommendation. During the period under review, the Council considered and unanimously adopted a recommendation of this kind (Case 2).]

**CASE 2**

At the 1620th meeting held in private on 21 December 1971, the Security Council considered the question of the recommendation for the appointment of Secretary-General of the United Nations, and unanimously decided to recommend to the General Assembly that Mr. Kurt Waldheim be appointed as Secretary-General of the United Nations.<sup>14</sup> On the same date the President (Sierra Leone) transmitted this recommendation to the President of the General Assembly.<sup>15</sup>

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

**3. Conditions of participation of States not Members of the United Nations but parties to the Statute of the International Court of Justice in the amendment of the Statute**

**STATUTE OF THE INTERNATIONAL COURT OF JUSTICE**

*"Article 22*

"1. The seat of the Court shall be established at The Hague. This, however, shall not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable.

"2. The President and the Registrar shall reside at the seat of the Court."

*"Article 23*

"1. The Court shall remain permanently in session, except during the judicial vacations, the dates and duration of which shall be fixed by the Court.

"2. Members of the Court are entitled to periodic leave, the dates and duration of which shall be

fixed by the Court, having in mind the distance between The Hague and the home of each judge.

"3. Members of the Courts shall be bound, unless they are on leave or prevented from attending by illness or other serious reasons duly explained to the President, to hold themselves permanently at the disposal of the Court."

*"Article 28*

"The chambers provided for in Articles 26 and 29 may, with the consent of the parties, sit and exercise their functions elsewhere than at The Hague."

*"Article 69*

"Amendments to the present Statute shall be effected by the same procedure as is provided by the Charter of the United Nations for amendments to that Charter, subject however to any provisions which the General Assembly upon recommendation of the Security Council may adopt concerning the participation of States which are parties to the present Statute but are not Members of the United Nations."

**CASE 3**

By letter<sup>16</sup> dated 23 September 1969, the President of the General Assembly informed the Security Council of the inclusion in the agenda for its twenty-fourth session of an item entitled "Amendment to Article 22 of the Statute of the International Court of Justice (Seat of the Court) and consequential amendments to Articles 23 and 28".

The Security Council included<sup>17</sup> the letter from the President of the General Assembly in its agenda at its 1514th meeting on 23 October 1969.

The President (United Kingdom) stated that Liechtenstein, San Marino and Switzerland were parties to the Statute of the International Court of Justice, but were not Members of the United Nations. In accordance with the provisions of Article 69 of the Statute, the Council might wish to recommend to the General Assembly for adoption of certain provisions, concerning the participation of States which were parties to the Statute but were not Members of the United Nations, in the procedure for effecting amendments to the Statute. He added that after consultations with members of the Council, a draft resolution<sup>18</sup> on the subject had been prepared and circulated, which he believed carried general support.

The representative of the USSR stated that States which were parties to the Statute but were not Members of the United Nations could take part in the consideration of problems relating to amendments to the Statute which were on the agenda of the twenty-fourth session of the General Assembly. Since operative paragraph 2 of the draft resolution clearly reflected the important provisions of Article 69 of the Statute and of Article 108 of the Charter, the Security Council should adopt it. However, in agreeing to the draft resolution relating only to the procedure for allowing States which were parties to the Statute but were not Members of the

<sup>14</sup> See Official Communiqué of the 1620th meeting held in private on 21 December 1971.

<sup>15</sup> A/8496 (mimeo.).

<sup>16</sup> Circulated by the President of the Security Council in document S/9462, OR, 24th yr., Supplement for October-December 1969, p. 86.

<sup>17</sup> 1514th meeting, immediately preceding para. 6.

<sup>18</sup> Adopted without change as resolution 272 (1969).

United Nations to take part in the consideration of amendments to the Statute, his delegation in no way prejudged its position on the substance of the problem. In that context, the representative drew the attention of the Security Council to the continuing discriminatory practice against several sovereign socialist States. He said that the formula which limited the number of States that could take part in activities under the aegis of the United Nations only to States Members of the United Nations, members of the specialized agencies, the IAEA and parties to the Statute of the International Court of Justice was contrary to the spirit of the United Nations Charter and ran counter to the principle of universality of the Organization.

The representatives of France and the United States stated that they were in agreement with the final text of the draft resolution.

The representatives of France, the United Kingdom and the United States, however, reserved their right to comment on the issue raised by the representative of the USSR, which, they said, was not on the agenda of the Council.<sup>19</sup>

**Decision:** At the 1514th meeting on 23 October 1969, the President, in the absence of objections, declared the draft resolution acceptable to the Security Council. Consequently, the draft resolution was adopted without a vote. It read as follows:

*"The Security Council,*

*"Noting that the General Assembly has included in the agenda of its twenty-fourth regular session an item relating to the amendment of the Statute of the International Court of Justice,*

*"Recalling that, under Article 69 of the Statute of the International Court of Justice, the Security Council may recommend to the General Assembly for adoption provisions concerning the participation of States which are parties to the Statute, but are not Members of the United Nations, in the procedure for effecting amendments to the Statute,*

*"Recommends to the General Assembly the adoption of the following provisions concerning such participation:*

*"(a) A State which is a party to the Statute of the International Court of Justice, but is not a Member of the United Nations, may participate in the General Assembly in regard to amendments to the Statute in the same manner as the Members of the United Nations;*

*"(b) Amendments to the Statute of the International Court of Justice shall come into force for all States which are parties to the Statute when they have been adopted by a vote of two thirds of the States which are parties to the Statute and ratified in accordance with their respective constitutional processes by two thirds of the States which are parties to the Statute and in accordance with the provisions of Article 69 of the Statute and Article 108 of the Charter of the United Nations."<sup>20</sup>*

<sup>19</sup> For relevant statements, see 1514th meeting: President (United Kingdom), paras. 6-10, 38-39; France, paras. 28-32; USSR, paras. 11-26; United States, paras. 33-36.

<sup>20</sup> *Ibid.*, para. 38. By resolution 2520 (XXIV) of 4 December 1969, the General Assembly adopted the recommendation without change.

**\*\*4. Conditions under which a non-member State, party to the Statute, may participate in electing Members of the International Court of Justice**

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

*"Article 12*

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

*"2. If the joint conference is unanimously agreed upon any person who fulfils the required conditions, he may be included in its lists, 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 ob-*

tained 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 1515th meeting on 27 October 1969, 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 1970.<sup>21</sup> Prior to the balloting, the President (United Kingdom), referring to the memorandum<sup>22</sup> submitted by the Secretary-General, stated that, in accordance with Article 10, paragraph 1, of the Statute of the Court, the candidate who obtained an absolute majority of votes both in the General Assembly and in the Security Council, would be considered elected as a Member of the Court. He further reminded that the required majority in the Security Council was eight votes. However, should there be more than five candidates obtaining the required majority, a new vote on all candidates would be taken according to the procedure which had been followed in the past.

A vote was taken by secret ballot, and four candidates received the required majority. The President stated that in view of this fact the Council had to proceed to a ballot for the fifth seat. At the sixth ballot, the fifth candidate received the required majority. The President thereupon stated that he would transmit the results of the election to the President of the General Assembly, and asked the Council to remain in suspended session until the President of the General Assembly had informed the Council of the results of the voting in the Assembly.<sup>23</sup> After a brief suspension of the meeting, the President announced that he had received a letter from the President of the General Assembly informing the Council that five candidates had been elected Members of the International Court of Justice by the General Assembly at the 1790th plenary meeting.

The President then stated that inasmuch as the same candidates had also received the majority of votes in the Security Council, they had been elected Members

<sup>21</sup> 1515th meeting, paras. 1-3.

<sup>22</sup> S/9353. Also circulated as document A/7569, see GAOR, 24th sess. ann., a.i. 18, doc. A/7569.

<sup>23</sup> 1515th meeting, paras. 4-12.

of the International Court of Justice for a term of office of nine years beginning on 6 February 1970.<sup>24</sup>

F. RELATIONS WITH SUBSIDIARY ORGANS ESTABLISHED BY THE GENERAL ASSEMBLY

[Note: The case histories included herein give accounts of the relation between a subsidiary organ established by the General Assembly and the Security Council and also relations between the Security Council and three subsidiary organs established by the General Assembly which sent communications to the Security Council jointly as well as separately.]

CASE 5

By letter<sup>25</sup> dated 28 February 1969 the President of the United Nations Council for Namibia<sup>26</sup> drew the attention of the President of the Security Council to the deteriorating situation in Namibia brought about by its continuing illegal occupation by the South African authorities in defiance of General Assembly resolutions 2145 (XXI) of 27 October 1966, 2248 (S-V) of 19 May 1967, 2325 (XXII) of 16 December 1967, 2372 (XXII) of 12 June 1968 and 2403 (XXIII) of 16 December 1968. The letter also stressed the fact that there had been no advance towards the exercise of the right of self-determination and the attainment of independence by the people of Namibia and that the Council for Namibia had been denied the right to exercise its responsibilities under the aforementioned resolutions. The Council for Namibia considered that urgent consideration and necessary measures by the Security Council were required to secure the immediate withdrawal of South Africa from Namibia where, due to the oppressive and illegal measures taken by the Government of South Africa, a serious threat to international peace and security had developed. Subsequently, at the request<sup>27</sup> of forty-six Member States dated 14 March 1969 the situation in Namibia was included in the agenda of the Security Council.<sup>28</sup> The Council considered it at its 1464th and 1465th meetings, both held on 20 March 1969. At the 1464th meeting, following the adoption of the agenda, the representative of the United Arab Republic was invited, at his request, to participate in the discussion in his capacity as President of the United Nations Council for Namibia.<sup>29</sup> At the 1465th meeting the representative of the United Arab Republic\* stated that the United Nations Council for Namibia had not been able to discharge its responsibilities of administering Namibia until its independence due to the policy of defiance and obstruction pursued by the South African Government. The continued and illegal presence of South Africa in Namibia constituted an act of aggression which the United Nations had the responsibility to suppress by all means provided to it by the Charter. The Council for Namibia could discharge its responsibility only if all necessary measures

<sup>24</sup> *Ibid.*, paras. 13-14.

<sup>25</sup> S/9032, OR, 24th yr., Suppl. for Jan.-March 1969, pp. 92-93.

<sup>26</sup> The *Repertoire of the Practices of the Security Council, Supplement 1966-1968* (chapter VI, part I, Case 4) dealt with the relations between the United Nations Council for South West Africa and the Security Council. In accordance with General Assembly resolution 2372 (XXII) of 12 June 1968 the name of the United Nations Council for South West Africa was changed to the United Nations Council for Namibia as that resolution had proclaimed that henceforth, South West Africa should be known as Namibia.

<sup>27</sup> S/9090 and Add.1-3, OR, 24th yr., Suppl. for Jan.-March 1969, pp. 126-127.

<sup>28</sup> 1464th meeting, preceding para. 8.

<sup>29</sup> *Ibid.*, para. 9.



were taken for the removal of South Africa's presence from the territory.<sup>30</sup>

In its decision<sup>31</sup> of 20 March 1969, the Security Council recalled its resolutions 245 (1968) of 25 January 1968 and 246 (1968) of 14 March 1968 which had taken into consideration respectively, the letter of 25 January 1968 and the letter of 10 February 1968 from the President of the United Nations Council for South West Africa (Namibia).

By letter<sup>32</sup> dated 23 July 1969, the President of the United Nations Council for Namibia conveyed to the President of the Security Council that the Council for Namibia had considered the situation resulting from the reaction of the Government of South Africa to Security Council resolution 264 (1969), as included in the report<sup>33</sup> of the Secretary-General of 14 May 1969. In view of South Africa's continued defiance of the resolutions of the General Assembly and the Security Council, including the latest Security Council resolution (S/RES/264 (1969)), and the fresh measures that it had taken to divide Namibia into separate "homelands" the United Nations Council for Namibia had concluded that the Security Council be asked to take urgent measures to ensure the speediest possible implementation of its resolution 264 (1969). By a further letter<sup>34</sup> dated 24 July 1969 representatives of eleven States, members of the United Nations Council for Namibia, requested an urgent meeting of the Council to consider the situation resulting from the refusal of the Government of South Africa to comply with General Assembly and Security Council resolutions relating to Namibia. By letter<sup>35</sup> dated 1 August 1969, addressed to the President of the Security Council, the representatives of fifty-one Member States associated themselves with that request.

At its 1492nd meeting on 30 July 1969 the Security Council included in its agenda<sup>36</sup> the letter of the members of the United Nations Council for Namibia, and considered the situation in Namibia at its 1492nd to 1497th meetings held between 30 July and 12 August 1969. At the 1492nd meeting on 30 July the Security Council invited, at his request, the representative of Chile, in his capacity as President of the United Nations Council for Namibia to participate in the discussion.<sup>37</sup> In its decision of 12 August 1969, the Security Council recalled its resolution 264 (1969) of 20 March 1969.<sup>38</sup>

By letter<sup>39</sup> dated 10 October 1969, the President of the United Nations Council for Namibia informed the Security Council that at its 70th meeting held that day, the Council for Namibia had expressed its grave concern at the defiant and negative response of the Government of South Africa to Security Council resolution 269 (1969). The persistent refusal of that Government to comply with decisions of the Security Council in violation of Article 25 of the Charter had constituted a rejection of the authority of the Security Council and

thus presented a grave challenge to the United Nations as a whole. In view of the special responsibilities of the United Nations to the people of Namibia, the Council for Namibia would draw the Security Council's attention to the urgent need for effective action to implement its resolution 269 (1969). By letter<sup>40</sup> dated 26 January 1970 the representatives of fifty-seven Member States requested an urgent meeting of the Security Council to examine the situation resulting from the failure of the Government of South Africa to comply with the letter and spirit of Security Council resolution 269 (1969). At the 1527th meeting on 28 January 1970, following the adoption of the agenda,<sup>41</sup> the representative of Turkey was invited to participate in the discussion in his capacity as the President of the United Nations Council for Namibia.<sup>42</sup> The Council considered the question at the 1527th to 1529th meetings, held between 28 and 30 January 1970. At the 1528th meeting, the representative of Turkey,\* speaking in his capacity as President of the United Nations Council for Namibia, stated that the intransigence of South Africa on the question of Namibia followed a long historical process which begun with the decision by the General Assembly (resolution 2145 (XXI)) to terminate the mandate of South Africa over the Territory of Namibia. Since then the Government of South Africa had refused to release its hold on Namibia and had constantly opposed the establishment of any contact with the Council set up to administer the Territory. Such a flagrant challenge to the General Assembly and the Security Council constituted a violation of Article 25 of the Charter and represented a threat to the international order. At its recent meetings, the Council for Namibia had examined new ways and means, practical and effective steps, which would not necessarily stand in the way to the application of the provisions of Chapter VII of the Charter by the Security Council.<sup>43</sup> In its decision of 30 January 1970, the Security Council reaffirmed resolution 264 (1969), established an *Ad Hoc* Sub-Committee of the Security Council to study ways and means by which the relevant Council's resolutions could be effectively implemented and requested all States, as well as the specialized agencies and other relevant organs of the United Nations, to give to the Sub-Committee all the information and other assistance it might require.<sup>44</sup>

By letter<sup>45</sup> dated 23 July 1970 the representatives of Burundi, Finland, Nepal, Sierra Leone and Zambia requested a meeting of the Security Council to consider a report<sup>46</sup> of the *Ad Hoc* Sub-Committee established in pursuance of Security Council resolution 276 (1970). At its 1550th meeting on 29 July 1970, the Council included in its agenda the report of the *Ad Hoc* Sub-Committee, as well as the letter from the representatives requesting the meeting. In its decision of the same date, the Security Council reaffirmed its resolutions 264 (1969) of 20 March 1969 and 276 (1970) of 30 January 1970 and requested the United Nations Council for Namibia to make available to the Security Council the results of its study and proposals with

<sup>30</sup> 1465th meeting, paras. 99-102.

<sup>31</sup> Resolution 264 (1969) of 20 March 1969, third preambular para. *Resolutions and Decisions of the Security Council 1969, OR, 24th yr., p. 1.*

<sup>32</sup> S/9352, *OR, 24th yr., Suppl. for July-Sept. 1969, p. 136.*

<sup>33</sup> S/9204, *OR, 24th yr., Suppl. for April-June 1969, pp. 153-158.*

<sup>34</sup> S/9359, *OR, 24th yr., Suppl. for July-Sept. 1969, p. 138.*

<sup>35</sup> S/9372/Add.1-3, *OR, 24th yr., Suppl. for July-Sept. 1969, p. 147.*

<sup>36</sup> 1492nd meeting, preceding para. 1.

<sup>37</sup> *Ibid.*, para. 1.

<sup>38</sup> Resolution 269 (1969) of 12 August 1969, first preambular para.

<sup>39</sup> S/9471.

<sup>40</sup> S/9616, and Add. 1-3, *OR, 25th yr., Suppl. for Jan.-March 1970, p. 112.*

<sup>41</sup> 1527th meeting, preceding para. 24.

<sup>42</sup> *Ibid.*, para. 26.

<sup>43</sup> 1528th meeting, paras. 16, 19.

<sup>44</sup> Resolution 276 (1970) of 30 January 1970, third preambular para. and paras. 6 and 7.

<sup>45</sup> S/9886, *OR, 25th yr., Suppl. for July-Sept. 1970, p. 117.*

<sup>46</sup> S/9863, *Ibid.*, pp. 81-103.

regard to the issuance of passports and visas for Namibians, and to undertake a study and make proposals with regard to special passport and visa regulations to be adopted by States concerning travel of their citizens to Namibia.<sup>47</sup>

#### CASE 6

By letter<sup>48</sup> dated 2 September 1971, the Acting Chairman 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 transmitted to the Security Council the text of a consensus adopted by the Special Committee on 2 September 1971, in which the Special Committee, after expressing its grave concern at the extremely dangerous situation existing in Namibia as a result of South Africa's continued defiance of the authority of the United Nations, condemned South Africa's policies in Namibia, as well as the support it had received from its allies in pursuit of those policies; and called upon the Governments concerned to withdraw such support forthwith. The Special Committee also expressed the hope that the Security Council would, in the light of the opinion of the International Court of Justice,<sup>49</sup> consider without further delay taking all effective measures envisaged under the Charter to ensure the attainment of the goals set out in the Declaration with respect to Namibia and fully endorsed the call for a meeting of the Security Council contained in a resolution adopted by the Organization of African Unity at its eighth session on 23 June 1971. By letter<sup>50</sup> dated 17 September 1971, the representatives of thirty-seven African States Members of the United Nations requested that the Security Council be convened to discuss ways and means of enforcing the past decisions of the United Nations in the light of the legal obligations decided upon by the International Court of Justice. The letter stated that the request was being made in accordance with the resolution of the Assembly of the Heads of State and Government of the Organization of African Unity at its eighth session. By letter<sup>51</sup> dated 23 September 1971, the Chairman of the ninth Joint Meeting of the Special Committee on *Apartheid*, 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 and of the United Nations Council for Namibia transmitted to the Security Council the text of a consensus adopted on 13 September 1971, by which the Joint Meeting proposed that the presiding officers of the three bodies, or their representatives, should conduct periodic consultations to recommend for the consideration of the three bodies appropriate measures for co-ordination and submission of joint or parallel recommendations to the General Assembly and the Security

<sup>47</sup> Resolution 283 (1970) of 29 July 1970, second preambular para. and para. 10.

<sup>48</sup> S/10303, *OR*, 26th yr., *Suppl. for July-Sept. 1971*, pp. 59-60.

<sup>49</sup> See this chapter, Case 7.

<sup>50</sup> S/10326, *OR*, 26th yr., *Suppl. for July-Sept. 1971*, p. 64.

<sup>51</sup> S/10331, *Ibid.*, p. 65.

Council on matters of common interest. In regard to the situation in Namibia, the Joint Meeting further recommended that the Security Council should take effective and positive measures in furtherance of General Assembly resolutions 2145 (XXI) and 2248 (S-V) and the decisions of the Security Council itself, in the light of the recent Advisory Opinion of the International Court of Justice which confirmed the illegality of South Africa's occupation of Namibia. By letter<sup>52</sup> dated 6 October 1971, the President of the United Nations Council for Namibia, transmitted to the President of the Security Council the text of a letter dated 3 September 1971 from Chief Clemens Kapuuo of Namibia, complaining that the natural mineral resources of Namibia were being exploited by foreign firms with the full knowledge and permission of the South African Government and to the detriment of the indigenous people of the Territory.

The Security Council considered the situation in Namibia at its 1583rd to 1585th, 1587th to 1589th, 1593rd to 1595th and 1597th to 1598th meetings held between 27 September and 20 October 1971.

At the 1584th meeting on 27 September 1971 the representative of Nigeria,\* speaking in his capacity as President of the United Nations Council for Namibia, declared that the Advisory Opinion of the International Court of Justice meant that the Court had recognized the United Nations Council for Namibia as the *de jure* Government of Namibia. The Council's identity and travel documents for Namibians were recognized by more than seventy Governments. However, if the Council had the legal powers of a sovereign entity vis-à-vis Namibia, it lacked the resources and was unable to exercise those powers, particularly inside the Territory. To enable the Council for Namibia to carry out its responsibilities, the Security Council would have to put an end to the illegal occupation of Namibia by South Africa by the application of the strongest possible measures against that country, including those provided in Chapter VII of the Charter if necessary.<sup>53</sup> In its decision<sup>54</sup> of 20 October the Security Council reaffirmed its resolutions 264 (1969) of 20 March 1969, 276 (1970) of 30 January 1970 and 283 of 29 July 1970 and noted the statement of the President of the United Nations Council for Namibia.

#### G. RECOMMENDATIONS MADE BY THE GENERAL ASSEMBLY TO THE SECURITY COUNCIL IN THE FORM OF RESOLUTIONS

[*Note:* During the period under review, the General Assembly made a number of recommendations to the Security Council regarding items which were already on the agenda of the Council. As in the previous *Supplement of the Repertoire* an appropriate heading has been established for the last column of the tabulation below related to the action taken by the Council in connexion with such recommendations.]

<sup>52</sup> S/10356, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, pp. 22-23.

<sup>53</sup> 1584th meeting, paras. 71-90.

<sup>54</sup> Resolution 301 (1971).

#### TABULATION OF RECOMMENDATIONS

Entry No.	General Assembly resolutions	Subject of recommendations	Action by the Security Council
1. ....	2498 (XXIV) 31 October 1969	Question of Namibia	Took up for consideration at the 1527th meeting at the request of forty-eight Member States dated 26 January 1970 (S/9616) and again at the 1550th meeting at the request of Burundi, Finland, Nepal, Sierra Leone and Zambia dated 27 July 1970 (S/9886) <sup>a</sup>

Entry No.	General Assembly resolutions	Subject of recommendations	Action by the Security Council
2. ....	2506B (XXIV) 21 November 1969	The policies of <i>apartheid</i> of the Government of South Africa	Took up for consideration at the 1545th meeting at the request of forty African States dated 15 July 1970 (S/9867) <sup>a</sup>
3. ....	2507 (XXIV) 21 November 1969	Question of Territories under Portuguese Administration	None
4. ....	2508 (XXIV) 21 November 1969	Question of Southern Rhodesia	Took up for consideration at the 1530th meeting at the request of the United Kingdom dated 30 March 1970 (S/9675) and again at the 1556th meeting at the request of Burundi, Nepal, Sierra Leone, Syria and Zambia dated 6 November 1970 (S/9975/Rev.1) <sup>a</sup>
5. ....	2517 (XXIV) 1 December 1969	Question of Namibia	Took up for consideration at the 1527th meeting at the request of forty-eight Member States dated 26 January 1970 (S/9616) <sup>a</sup>
6. ....	2628 (XXV) 4 November 1970	The situation in the Middle East	None
7. ....	2652 (XXV) 3 December 1970	Question of Southern Rhodesia	Took up for consideration at the 1602nd meeting at the request of the United Kingdom dated 24 November 1971 (S/10396) <sup>a</sup>
8. ....	2671F (XXV) 8 December 1970	The policies of <i>apartheid</i> of the Government of South Africa	None
9. ....	2678 (XXV) 9 December 1970	Question of Namibia	Took up for consideration at the 1583rd meeting at the request of thirty-seven African States dated 17 September 1971 (S/10303) <sup>a</sup>
10. ....	2734 (XXV) 16 December 1970	Declaration on the Strengthening of International Security	None
11. ....	2775A (XXVI) 29 November 1971	The policies of <i>apartheid</i> of the Government of South Africa	Took up for consideration at the 1627th meeting as a result of the adoption of Security Council resolution 308 (1972) <sup>a</sup>
12. ....	2775F (XXVI) 29 November 1971	The policies of <i>apartheid</i> of the Government of South Africa	Took up for consideration at the 1627th meeting as a result of the adoption of Security Council resolution 308 (1972) <sup>a</sup>
13. ....	2787 (XXVI) 6 December 1971	Importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights	None
14. ....	2796 (XXVI) 10 December 1971	Question of Southern Rhodesia	Took up for consideration at the 1627th meeting as a result of the adoption of Security Council resolution 308 (1972) <sup>a</sup>
15. ....	2797 (XXVI) 10 December 1971	Question of Territories under Portuguese Administration	Took up for consideration at the 1627th meeting as a result of the adoption of Security Council resolution 308 (1972) <sup>a</sup>
16. ....	2799 (XXVI) 13 December 1971	The situation in the Middle East	None
17. ....	2871 (XXVI) 20 December 1971	Question of Namibia	Took up for consideration at the 1627th meeting as a result of the adoption of Security Council resolution 308 (1972) <sup>a</sup>
18. ....	2877 (XXVI) 20 December 1971	Question of Southern Rhodesia	Took up for consideration at the 1627th meeting as a result of the adoption of Security Council resolution 308 (1972) <sup>a</sup>
19. ....	2880 (XXVI) 21 December 1971	Implementation of the Declaration on the Strengthening of International Security	None

<sup>a</sup>No inference is intended that the action of the Security Council in this instance has been taken in response to the recommendation of the General Assembly.

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

"Article 24, paragraph 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, paragraph 3, the Security Council has continued, during the period under review, to submit annual reports to the General

Assembly.<sup>55</sup> It further transmitted to the General Assembly its recommendations concerning several applications for membership,<sup>56</sup> pursuant to paragraph 2 of

<sup>55</sup> Annual reports were approved by the Security Council at the following meetings held in private: 25th report, 1513th meeting, 15 October 1969; 26th report, 1553rd meeting, 10 October 1970; 27th report, 1596th meeting, 19 October 1971.

<sup>56</sup> Fiji (A/8119, 12 October 1970); Bhutan (A/8278, 11 February 1971); Bahrain (A/8359, 18 August 1971); Qatar (A/8381, 15 September 1971); Oman (A/8449, 30 September

rule 60 of its provisional rules of procedure. During the period covered by this *Supplement*, no special report was submitted 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.]

1971); and the United Arab Emirates (A/8561, 8 December 1971). For consideration of the aforementioned applications by the Security Council, see chapter VII, pp. 85-87.

## Part II

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

## Part III

### RELATIONS WITH THE TRUSTEESHIP COUNCIL

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

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

During the period under review, no questionnaires have been transmitted to the Security Council by the Trusteeship Council. The report of the latter body on the exercise of its functions in respect of the strategic areas under trusteeship, have, therefore, continued to be based on the revised questionnaire transmitted to the Security Council on 24 July 1953.<sup>57</sup>

<sup>57</sup> The revised questionnaire was further amended at the 1166th meeting of the Trusteeship Council on 7 July 1961. The document was circulated as T/1010/Rev.1.

Between 1 January 1969 and 31 December 1971, the Secretary-General transmitted to the Security Council the following reports of the Trusteeship Council on the Trust Territory of the Pacific Islands, which has continued to be the only Territory designated as a strategic area:

Twenty-first report adopted during the thirty-sixth session of the Trusteeship Council, 19 June 1969;<sup>58</sup>

Twenty-second report adopted during the thirty-seventh session of the Trusteeship Council, 19 June 1970;<sup>59</sup>

Twenty-third report adopted during the thirty-eighth session of the Trusteeship Council, 17 June 1971.<sup>60</sup>

<sup>58</sup> S/9400, OR, 24th yr., *Special Supplement No. 1*, pp. 1-79.

<sup>59</sup> S/9893, OR, 25th yr., *Special Supplement No. 1*, pp. 1-81.

<sup>60</sup> S/10237, OR, 26th yr., *Special Supplement No. 1*, pp. 1-69.

## Part IV

### RELATIONS WITH THE INTERNATIONAL COURT OF JUSTICE

#### *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."

#### CASE 7

At the 1550th meeting on 29 July 1970, in connexion with the situation in Namibia, the President of the Security Council (Nicaragua) drew the attention of the Council to a draft resolution<sup>61</sup> sponsored by the representative of Finland. It read as follows:

"*The Security Council,*

"*Reaffirming the special responsibility of the United Nations with regard to the Territory and the people of Namibia,*

"*Recalling its resolution 276 (1970) of 30 January 1970 on the question of Namibia,*

"*Taking note of the report and recommendations submitted by the Ad Hoc Sub-Committee established in pursuance of Security Council resolution 276 (1970),*

"*Taking further note of the recommendation of the Ad Hoc Sub-Committee on the possibility of requesting an advisory opinion from the International Court of Justice,*

"*Considering that an advisory opinion from the International Court of Justice would be useful for the Security Council in its further consideration of the question of Namibia and in furtherance of the objectives the Council is seeking,*

"1. *Decides to submit, in accordance with Article 96, paragraph 1, of the Charter of the United Nations, the following question to the International Court of Justice, with the request for an advisory opinion which shall be transmitted to the Security Council at an early date:*

<sup>61</sup> S/9892, adopted without change as resolution 284 (1970).

“What are the legal consequences for States of the continued presence of South Africa in Namibia, notwithstanding Security Council resolution 276 (1970)?”;

“2. Requests the Secretary-General to transmit the present resolution to the International Court of Justice, in accordance with Article 65 of the Statute of the Court, accompanied by all documents likely to throw light upon the question.”

Introducing the draft resolution, the representative of Finland stated that an advisory opinion from the International Court of Justice would have considerable value in defining and spelling out in legal terms the implications for States of the continued presence of South Africa in Namibia as well as in defining more precisely the rights of Namibians. Furthermore, an advisory opinion of the International Court of Justice could underline the fact that South Africa had forfeited its Mandate over South West Africa because of its violation of the terms of the Mandate itself, and because it had acted contrary to its international obligations, the international status of the Territory and international law. It was also important to expose the false front of legality which South African authorities had attempted to present to the world.<sup>62</sup>

The representative of Nepal stated that the draft resolution was based on the report<sup>63</sup> of the *Ad Hoc* Sub-Committee established in pursuance of Security Council resolution 276 (1970). He added that the understanding of his delegation was that the International Court of Justice would limit the scope of its opinion strictly to the question put to it and that it would not review or examine the legality or validity of the resolutions adopted by both the General Assembly and the Security Council. The scope of the question put to the world Court was restricted. It would be surprising if it spurred the major trading partners and military collaborators of South Africa into any positive effective actions because it was too much to expect that they would change their minds on the basis of the Court's opinion, whose effect would only be advisory. Nevertheless, this recourse to the Court might result in the provision of highest legal guidance and assistance for many law-abiding States, which wished to implement the United Nations resolution on the subject.<sup>64</sup>

The representative of Spain stated that it was appropriate to request a ruling from the International Court of Justice, for this would make it possible for everybody to be aware of the International legal consequences of a failure to comply with resolutions of a United Nations body, and specifically in the present case, with Security Council resolutions 264 (1969), 269 (1969) and 276 (1970).<sup>65</sup>

The representative of the USSR stated that the draft resolution could not be regarded as an effective measure which could help to drive the South Africans out of Namibia. Moreover, the adoption of such a decision would only delay the solution of the Namibian problem

and create false illusions as to the possibility of solving it by legal means, rather than by serious political action on the part of the Security Council.<sup>66</sup>

The Council then proceeded to the vote on the draft resolution submitted by Finland. The representative of France requested<sup>67</sup> in accordance with rule 32 of the provisional rules of procedure, a separate vote on the last passage of operative paragraph 1 of this draft resolution, reading as follows:

“... notwithstanding Security Council resolution 296 (1970)”. The phrase was retained<sup>68</sup> by 11 votes to none with 4 abstentions. The Council then adopted<sup>69</sup> the Finnish draft resolution as a whole by 12 votes to none with 3 abstentions.

After the vote, the representative of the United States stated that that was the very first time that the Security Council had availed itself of the procedures contained in Article 96, paragraph 1, of the Charter. He expressed further the view that the international community had a serious need for impartial and authoritative legal advice on the question of Namibia. In its advisory opinions of 1950,<sup>70</sup> 1955<sup>71</sup> and 1956,<sup>72</sup> the Court had already provided useful guidance to the Assembly on legal issues concerning Namibia, and now it could give the Council the benefit of its impartial and authoritative views both as to the duties of South Africa and the responsibility of other Members of the United Nations in light of resolution 276 (1970).<sup>73</sup>

The representative of France stated that the imprecise language of the request to the International Court of Justice might be a matter of regret. Since, however, the resolution would make it possible for the International Court of Justice to clarify the legality of the revocation of the mandate he would support the text.<sup>74</sup>

The representative of the United Kingdom stated that his Government had been quite willing to support a request for an advisory opinion from the International Court of Justice provided that that request sought the Court's opinion on the basic issue of the status of South West Africa as a whole. The present request was, however, based upon an assumption which should be examined rather by the Court itself. It should first be determined whether the General Assembly was competent to terminate the mandate over South West Africa as it claimed to do by virtue of its resolution 2145 (XXI). Secondly, if it were established that the General Assembly was so competent then there would still remain the question whether it was entitled to vest in the United Nations responsibility for the Territory. Those basic legal issues had not yet been the subject of any advisory opinion. The question which was being submitted at present to the International Court was of such a nature that it might inhibit the Court from pronouncing on the fundamental issue concerning the present status of South West Africa.

<sup>62</sup> *Ibid.*, para. 132.

<sup>63</sup> *Ibid.*, para. 157.

<sup>64</sup> 1550th meeting, para. 159.

<sup>65</sup> *Ibid.*, para. 160. Resolution 284 (1970).

<sup>66</sup> International status of South West Africa, Advisory Opinion: *I.C.J. Reports 1950*, p. 128.

<sup>67</sup> South West Africa—Voting procedure, Advisory Opinion of 7 June 1955: *I.C.J. Reports 1955*, p. 67.

<sup>68</sup> Admissibility of hearings of petitions by the Committee on South West Africa, Advisory Opinion of 1 June 1956: *I.C.J. Reports 1956*, p. 23.

<sup>69</sup> 1550th meeting: paras. 169-170.

<sup>70</sup> *Ibid.*, paras. 157, 178-179.

<sup>62</sup> 1550th meeting, paras. 38-41.

<sup>63</sup> S/9863, *OR*, 25th yr., *Suppl. for July-Sept. 1970*, pp. 81-83.

<sup>64</sup> 1550th meeting: paras. 81-83. Similar views were expressed at the same meeting by a number of other representatives. For their statements, see: 1550th meeting: Burundi, paras. 149-151; Sierra Leone, paras. 50-52; Syria, paras. 96-97; Zambia, para. 108.

<sup>65</sup> *Ibid.*, para. 116.

for those reasons that his delegation had abandoned the draft resolution.<sup>75</sup>

On 16 July 1971, the Secretary-General referred to the members of the Security Council the advisory opinion given by the International Court of Justice on 21 June 1971 in response to the request contained in Security Council resolution 284 (1970) of 29 July 1970. The Court, replying to the question "what are the legal consequences for States of the continued presence of South Africa in Namibia, notwithstanding Security Council resolution 276 (1970)?" stated:

"by 13 votes to 2,

"(1) that, the continued presence of South Africa in Namibia being illegal, South Africa is under obligation to withdraw its administration from Namibia immediately and thus put an end to its occupation of the Territory;

"by 11 votes to 4,

"(2) that States Members of the United Nations are under obligation to recognize the illegality of South Africa's presence in Namibia and the invalidity of its acts on behalf or concerning Namibia and to refrain from any acts and, in particular, any dealings with the Government of South Africa implying recognition of the legality of, or lending support or assistance to, such presence and administration;

"(3) that it is incumbent upon States which are not members of the United Nations to give assistance, within the scope of subparagraph (2) above, in the action which has been taken by the United Nations with regard to Namibia."

By letter<sup>77</sup> dated 13 July 1971, the Executive Secretary of the Organization of African Unity (OAU) transmitted to the President of the Security Council the texts of resolutions adopted on 23 June 1971 by the Assembly of Heads of State and Government at its eighth session, held in Addis Ababa. The resolution concerning Namibia noted with approval the advisory opinion of the International Court of Justice and called for a special meeting of the Security Council to discuss ways and means of enforcing the past decisions of the United Nations in the light of that opinion.

By letter<sup>78</sup> dated 30 July 1971, the Secretary-General informed the President of the Security Council that he had received a letter dated 12 July 1971 from the Minister of Foreign Affairs of Sudan, in the latter's capacity as Chairman of the Council of Ministers of OAU, requesting that a meeting of the Security Council be convened on 27 September 1971 to consider the question of Namibia in the light of the advisory opinion of the International Court of Justice.

By letter<sup>79</sup> dated 17 September the representatives of thirty-seven African States, requested that the Security Council be convened on 27 September 1971 to discuss ways and means of enforcing the past decisions of the United Nations in the light of the legal obligation imposed on the world community by the decision of the International Court of Justice. Their request was

being made in accordance with the resolution of the Assembly of Heads of State and Government of OAU, adopted by its eighth session.

On 23 September 1971, the Security Council's *Ad Hoc* Sub-Committee on Namibia submitted its report,<sup>80</sup> describing its activities at seventeen meetings held between 21 August 1970 and 23 September 1971, at which it had studied measures that it could recommend to the Security Council in accordance with its terms of reference as laid down in paragraph 14 of resolution 283 (1970).

At the 1583rd meeting on 27 September 1971, the Council included in its agenda the letter from the thirty-seven African States as well as the report of the *Ad Hoc* Sub-Committee on Namibia and considered the question at the 1583rd to 1585th, 1587th to 1589th, 1593rd to 1595th, 1597th and 1598th meetings held between 27 September and 20 October 1971.

At the 1583rd meeting on 27 September 1971 the President of Mauritania\* and Chairman of the OAU at that time, stated that he had been authorized by the Conference of Heads of State and Government of OAU to discuss with the Security Council the most appropriate means of implementing all the decisions of the General Assembly and the Security Council. Since the Advisory Opinion had categorically declared that the continued presence of South Africa in Namibia was illegal, the OAU was asking the Security Council to apply the pertinent provisions of Chapter VII of the Charter against the Government of South Africa for its persistent refusal to turn the administration of Namibia over to the United Nations.<sup>81</sup>

At the 1584th meeting on the same date, the representative of Burundi, speaking in his capacity as Chairman of the *Ad Hoc* Sub-Committee on Namibia, introduced its report and added that since the time of the advisory opinion, two parallel and complementary processes had started: on the one hand, the unanimous decision at the last meeting of the Heads of State and Government of the OAU to call an emergency meeting of the Security Council, and, on the other, the Security Council *Ad Hoc* Sub-Committee had begun, in the framework of the terms of reference contained in operative paragraphs 14 and 15 of resolution 283 (1970), to work out recommendations for the Security Council in conformity with the opinion of the International Court of Justice. He added that the confirmation by the Security Council of the advisory opinion of the International Court would not only benefit the Namibians but would also restore the honour of the Court and strengthen the United Nations as a whole.<sup>82</sup>

The President of the United Nations Council for Namibia stated that the United Nations could administer the Territory. The Court had, in other words,

<sup>80</sup> S/10330 and Corr.1 and Add.1, *OR*, 26th yr., *Special Supplement No. 5*.

<sup>81</sup> 1583rd meeting, paras. 4-30. Similar views were expressed during the discussion by a number of representatives and by the President of the South West Africa People's Organization (SWAPO) invited to participate in the debate under rule 39 of the provisional rules of procedure. For their statements, see: 1584th meeting: Guyana,\* paras. 213-217, 223; Somalia, paras. 178-182; 1585th meeting: Liberia,\* paras. 27-34, 43-51; Sierra Leone, paras. 52-90, 105-110; 1587th meeting: Ethiopia,\* paras. 10-42; Mauritius,\* paras. 68-80; Nigeria,\* paras. 48-65; 1588th meeting: Chad,\* paras. 40-58; Sudan,\* paras. 64-83; President of SWAPO, paras. 90-93, 95, 113, 120; 1593rd meeting: Syrian Arab Republic, paras. 58, 79, 81-82; 1595th meeting: Burundi, para. 34; India,\* paras. 57-60, 62; Uganda,\* para. 43.

<sup>82</sup> 1584th meeting, paras. 55-67.

<sup>75</sup> 1550th meeting, paras. 189-193.

<sup>76</sup> S/10267. Mimeo. Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council resolution 276 (1970), Advisory Opinion, *I.C.J. Reports 1971*, p. 16.

<sup>77</sup> S/10272, *OR*, 26th yr., *Suppl. for July-Sept., 1971*, p. 36.

<sup>78</sup> S/10277, *Ibid.*, p. 40.

<sup>79</sup> S/10326, *Ibid.*, p. 64.

recognized the United Nations Council for Namibia as *de jure* Government of Namibia.<sup>83</sup>

The representative of South Africa\* stated that the Court's advisory opinion was completely unacceptable to his Government. The primary issues which were before the Court were related to the powers of the General Assembly and of the Security Council and the question of the factual justification for the purported revocation of South Africa's title to administer the Territory. The Court itself had said that the powers of the Assembly were derived from and based upon the Charter. The Assembly could not, therefore, act outside it. The Assembly was empowered to discuss and recommend but not to make binding decisions or take direct action. The Court had avoided the issue and had failed to indicate what provision of the Charter could have authorized the Assembly to revoke the Mandate. He added that the question which the Court was called upon to answer was precisely whether the Assembly's purported revocation was within the framework of its competence. That framework of competence was to be found only in the provisions of the Charter—not in a bare assertion by the Court. The Court also had in the past repeatedly stressed that even when operating as a successor to the Council of the League, the General Assembly could not act otherwise than in accordance with the Charter. If the Court's findings were unconvincing in regard to the action taken by the General Assembly, they were even more so in regard to that of the Security Council. Although Article 24 of the Charter conferred upon the Security Council the primary responsibility for the maintenance of international peace and security, it did not itself confer any powers upon the Council. What it provided was that the Council, in order to discharge that responsibility, should have the specific powers laid down in Chapters VI, VII, VIII and XII. However, when the Court came to deal with the Council's power to adopt resolution 276 (1970), it stated that Article 24 conferred upon the Council general powers which might be exercised whenever a situation might lead to a breach of the peace. These powers were additional to those specifically granted to the Council under the Chapters indicated and were limited only by the extremely wide purposes and principles of the United Nations. Moreover, according to the Court, should the Council so intend, any decision which it might take would be binding in terms of Article 25. Those were important and far-reaching findings and it should be expected that the Court would explain them. Instead the Court had ignored arguments presented to the contrary. In support of its interpretation of Article 24 the Court merely referred to a statement by the Secretary-General in 1947.<sup>84</sup> The correctness of that statement was itself an issue which was controverted during the proceedings. But the Court accepted its correctness without giving any reason for that acceptance. The Court had further asserted that the Council was acting for the maintenance of peace, an assertion which the Council itself avoided making in any one of its resolutions.<sup>85</sup>

<sup>83</sup> 1584th meeting, paras. 72, 78.

<sup>84</sup> S/10267. Mimeo. Legal consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council resolution 276 (1970), Advisory Opinion, *I.C.J. Reports 1971*, para. 110, p. 52. Reference is made to a statement by the Secretary-General at the 93rd meeting of the Security Council on 10 January 1947. See 93rd meeting, pp. 44-45.

<sup>85</sup> 1584th meeting, paras. 96-140.

The representative of Guyana\* noted that a most important aspect of the Court's opinion was that the Court had specifically adverted in it to the obligations of non-Member States to act in accordance with the decisions of the General Assembly and the Security Council. It must be trusted that non-Member States of the Organization that had previously considered themselves free to pursue courses of conduct in or in relation to Namibia inconsistent with the United Nations decisions would now desist and acknowledge themselves as being under obligations of a similar nature to those of all Member States.<sup>86</sup>

At the 1588th meeting on 5 October 1971, the representative of France stated that his delegation could not accept the advisory opinion in which was set forth a number of general considerations on the jurisdiction of the General Assembly and of the Security Council, which went far beyond the question of Namibia. It also rejected the Court's contention in paragraph 105 of its opinion, that the Assembly might not only make recommendations but also could take decisions binding on States on the sole condition that it kept within the framework of questions which it was empowered to discuss. If such a view were accepted, it would make the General Assembly the parliament of a world super-State. Similarly, although the Security Council was empowered to take decisions binding on all States, those decisions were limited to cases which fell within the framework of Chapter VII of the Charter and had been adopted as a result of determination of threats to the peace, as required by Article 39.<sup>87</sup>

At the 1589th meeting on 6 October 1971, the representative of South Africa\* stated that an advisory opinion was, as its name indicated, advisory only and its weight should ultimately be attached on the cogency of its reasoning. He contended further that General Assembly resolution 2145 (XXI) and the resolutions to which it gave rise legally were invalid, since the Charter did not confer any power to the Assembly to adopt binding decisions, with the exceptions expressly spelled out in the Charter such as the admission of Members, the approval of a budget or the apportionment of expenses.<sup>88</sup>

The representative of Japan stated that there was no doubt as to the rightness of the Court's conclusions, and the Security Council should respect those conclusions when formulating ways and means to implement its relevant resolutions on the Namibian problem.<sup>89</sup>

The representative of Italy noted that his delegation agreed with the conclusions of the Court and thought that its reasoning on the main question put to it was sound. However, the Court also pronounced itself on various other questions, some of which involved delicate constitutional problems. The opinion expressed on those problems might raise very controversial issues which were not essential for dealing with the question of Namibia, as a far-reaching interpretation of Articles 24 and 25 of the Charter—an interpretation not shared by his Government.<sup>90</sup>

At the 1593rd meeting on 13 October 1971, the representative of Argentina stated that it would be

<sup>86</sup> 1584th meeting, para. 218.

<sup>87</sup> 1588th meeting, paras. 15-19. A similar view was expressed by the representative of the United Kingdom. For his statement, see 1589th meeting, paras. 49-61.

<sup>88</sup> 1589th meeting, paras. 70-76.

<sup>89</sup> *Ibid.*, para. 94.

<sup>90</sup> *Ibid.*, paras. 112, 116.

improper for the Security Council to judge the juridical value of an opinion rendered by the Court. If, however, the interpretations of various provisions of the Charter, for example Articles 24, 25, 27(3) and 32, were to give rise to reservations among Member States, it was doubtful that the Security Council would be the appropriate forum in which to debate them. The *Ad Hoc* Sub-Committee correctly approached its task to decide which was the best course of action to follow by considering the new prospects opened by the advisory opinion, but without discussing its legal basis.<sup>91</sup>

At the 1594th meeting on 14 October 1971, the representative of Belgium stated that his Government agreed with the conclusions of the Court that South Africa had the obligation to put an immediate end to its illegal presence in Namibia. However, the Court stressed a number of general matters on which his Government had felt that the Security Council could adopt decisions mandatory for all Member States of the United Nations only when, in conformity with Chapter VII of the Charter, it had found that there was a threat to the peace or an act of aggression.<sup>92</sup>

The representative of Liberia\* stated that South Africa's obligations under the Mandate were legal obligations. The International Court of Justice had upheld that position and the Security Council had similarly endorsed it by stating that the supervisory authority of the League of Nations, including the power to terminate the Mandate, now rested with the United Nations. In its 1950 advisory opinion on the International Status of South West Africa,<sup>93</sup> the Court stated that the supervisory functions of the League were to be exercised by the United Nations, and that South Africa was obliged to submit the annual reports provided for in the Mandate and to transmit petitions from the inhabitants of the Territory to the General Assembly, and the subsequent advisory opinions in 1955<sup>94</sup> and 1956,<sup>95</sup> had reaffirmed the Mandatory's legal obligations and the General Assembly's supervisory role. Since South Africa had violated its obligations and those violations provided the basis for the revocation of the Mandate even though such power had not been specifically expressed in the Covenant of the League, such an implication must be drawn from the instrument establishing the Mandate for South West Africa. The early practice of the United Nations also supported the conclusion that it had the competence to terminate mandates established by the League of Nations. In connexion with the Palestine Mandate the General Assembly adopted in 1947 resolution 181 (II) which terminated that Mandate. As to the contention that the Security Council decisions were binding only if taken under Chapter VII of the Charter, and after a determination under Article 39 thereof that a particular situation constituted a threat to the peace, a breach of the peace or an aggression, the representative of Liberia noted that it was necessary to point out that there was not and had never been such a "clear understanding" on the limits of the Council's decision-making authority. The powers of the Security Council as provided for in Article 24 did not seem to be so

limited. It had been generally accepted that the Council, in the discharge of its responsibilities, could exercise powers beyond those specifically listed in Article 24, paragraph 2, provided that such powers were consistent with the purposes and principles of the Charter. The records showed that during the United Nations Conference on International Organization which met at San Francisco in 1945 attempts to restrict the powers of the Council were defeated. Likewise, attempts to limit obligations of Member States under Article 25 to those decisions taken by the Council in the exercise of its specific powers under Chapters VI, VII and VIII of the Charter had failed. Then he added:

"In addition, it is indicated in the *Repertory of Practice of United Nations Organs* that Article 25 'contains no precise delimitation of the range of questions to which it relates,' and that 'the Security Council has on no occasion defined the scope of the obligation incurred by Members of the United Nations under Article 25'.<sup>96</sup>

The representative of Liberia also recalled that at the 550th meeting of the Council on 1 August 1951 the representative of the United Kingdom argued that the Council had undoubted authority to take a decision that the restrictions on the passage of ships through the Suez Canal be removed and that the draft resolution (S/2298) co-sponsored by France and the United Kingdom providing for the Council to take action in the matter, contained no determination by the Council that the conditions fell under Article 39. Furthermore, in the absence of any formal determination under Article 39, the Security Council took important decisions considered by all Member States, to be binding in connexion with the situation in the Congo such as resolutions 145 (1960) and 146 (1960).<sup>97</sup>

At the 1595th meeting on 19 October 1971, the representative of Somalia introduced<sup>98</sup> a draft resolution<sup>99</sup> submitted jointly by Burundi, Sierra Leone, Somalia and the Syrian Arab Republic. The relevant paragraphs of the draft resolution read:

"The Security Council

"...

"Recalling its resolution 284 (1970) requesting the International Court of Justice for an advisory opinion on the question:

"What are the legal consequences for States of the continued presence of South Africa in Namibia, notwithstanding Security Council resolution 276 (1970)?",

"Gravely concerned at the refusal of the Government of South Africa to comply with the resolutions of the Security Council pertaining to Namibia,

"...

"Having considered the report of the *Ad Hoc* Sub-Committee on Namibia (S/10330),

"1. Reaffirms that the Territory of Namibia is the direct responsibility of the United Nations and that this responsibility includes the obligation to support and promote the rights of the people of

<sup>91</sup> 1593rd meeting, paras. 33-35, 38-40, 45.

<sup>92</sup> 1594th meeting, para. 51.

<sup>93</sup> International Status of South West Africa, Advisory Opinion: *I.C.J. Reports 1950*, p. 128.

<sup>94</sup> South West Africa—Voting procedure, Advisory Opinion of June 7, 1955: *I.C.J. Reports 1955*, p. 67.

<sup>95</sup> Admissibility of Hearings of Petitioners by the Committee on South West Africa, Advisory Opinion of June 1, 1956: *I.C.J. Reports 1956*, p. 23.

<sup>96</sup> *Repertory of Practice of United Nations Organs, Supplement No. 1*, vol. I, p. 257.

<sup>97</sup> 1594th meeting, paras. 19-42.

<sup>98</sup> 1595th meeting, para. 106.

<sup>99</sup> S/10372, OR, 26th yr., Suppl. for Oct.-Dec. 1971, pp. 25-26.



Namibia in accordance with General Assembly resolution 1514 (XV);

"2. *Reaffirms* the national unity and territorial integrity of Namibia;

"...

"4. *Declares* that South Africa's continued illegal presence in Namibia constitutes an internationally wrongful act and a breach of international obligations and that South Africa remains accountable to the international community for any violations of its international obligations or rights of the people of the Territory of Namibia;

"5. *Takes note* of the advisory opinion of the International Court of Justice, in particular the following conclusions:

"(1) That the continued presence of South Africa in Namibia being illegal, South Africa is under obligation to withdraw its administration from Namibia immediately and thus put an end to its occupation of the Territory;

"(2) That States Members of the United Nations are under obligation to recognize the illegality of South Africa's presence in Namibia and the invalidity of its acts on behalf of or concerning Namibia, and to refrain from any acts and in particular any dealings with the Government of South Africa implying recognition of the legality of, or lending support or assistance to, such presence and administration;

"(3) That it is incumbent upon States which are not Members of the United Nations to give assistance, within the scope of subparagraph (2) above, in the action which has been taken by the United Nations with regard to Namibia;

"...

"9. *Reaffirms* the provisions of resolution 283 (1970) and in particular paragraphs 1 to 8 and 11;

"10. *Calls upon* all States in discharge of their responsibilities towards the people of Namibia and subject to the exceptions set forth in paragraphs 122 and 125 of the advisory opinion of the International Court of Justice:

"(a) To abstain from entering into treaty relations with South Africa in all cases in which the Government of South Africa purports to act on behalf of or concerning Namibia;

"(b) To abstain from invoking or applying those treaties or provisions of treaties concluded by South Africa on behalf of or concerning Namibia which involve active intergovernmental co-operation;

"(c) To review their bilateral treaties with South Africa in order to ensure that they are not inconsistent with paragraphs 5 and 6 above;

"(d) To abstain from sending diplomatic or special missions to South Africa including in their jurisdiction the Territory of Namibia;

"(e) To abstain from sending consular agents to Namibia and to withdraw any such agents already there;

"(f) To abstain from entering into economic and other forms of relationship or dealings with South Africa on behalf of or concerning Namibia which may entrench its authority over the Territory;

"11. *Declares* that franchises, rights, titles or contracts relating to Namibia granted to individuals or companies by South Africa after the adoption of General Assembly resolution 2145 (XXI) are not subject to protection or espousal by their States against claims of a future lawful Government of Namibia;

"...".

The representative of Argentina suggested that a new fifth paragraph of the preamble could be introduced or an addition to paragraph 5 could be made as follows: "Takes note with appreciation of the advisory opinion...".<sup>100</sup>

At the 1597th meeting on 19 October 1971, the representative of Somalia introduced the revised text<sup>101</sup> of the four-Power draft resolution.

Introducing the revised text the representative of Somalia stated that as a result of consultations the majority of the suggestions made by the representative of Argentina were incorporated in the draft resolution. Paragraph 5 of the revised draft resolution stated that the Council "Takes note with appreciation of the advisory opinion of the International Court of Justice" and paragraph 6 went a step further to endorse the Court's opinion expressed in paragraph 133 of the advisory opinion. He added that the sponsors would have wished to see the Council endorse the whole of the advisory opinion but in view of the positions which individual delegations had adopted on it, the sponsors had singled out paragraph 133, since it had important relevance and quite neatly summed up the opinion requested from the Court by the Security Council.<sup>102</sup>

At the 1598th meeting on 19 October 1971, the representative of Somalia informed the Council that after further consultations with various delegations the sponsors agreed that in paragraph 6 the word "Endorses" should be replaced by "Agrees with".<sup>103</sup> Then the revised draft resolution<sup>104</sup> was put to the vote and adopted<sup>105</sup> by 13 votes in favour, none against and 2 abstentions.

<sup>100</sup> 1595th meeting, para. 133.

<sup>101</sup> S/10372/Rev.1.

<sup>102</sup> 1597th meeting, paras. 6, 9.

<sup>103</sup> 1598th meeting, para. 4.

<sup>104</sup> S/10372/Rev.1. Adopted without further changes as resolution 301 (1971).

<sup>105</sup> 1598th meeting, para. 31.

## Part V

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