



Repertoire of the Practice of the Security Council

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Part VI

**Consideration of the provisions of Chapter VI of
the Charter**

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Introductory note

Part VI of the *Repertoire* covers the practice of the Security Council with regard to the interpretation and application of Chapter VI (Articles 33 to 38) as well as Articles 11 and 99 of the Charter of the United Nations in so far as it concerns the peaceful settlement of disputes.

Part VI is divided into four main sections. Section I illustrates how States brought disputes or situations to the attention of the Security Council during the period under review, pursuant to Article 35 of the Charter. This section also surveys the practice of the General Assembly and the Secretary-General, under Articles 11 (3) and 99 of the Charter, respectively, in drawing the attention of the Council to situations which are likely to threaten the maintenance of international peace and security. Section II features the investigative and fact-finding activities performed by the Council and other bodies that may be deemed to fall under the scope of Article 34, including the Security Council missions. Section III provides an overview of the decisions of the Council taken with regard to the pacific settlement of disputes. It specifically illustrates recommendations of the Council to parties to a conflict and its support for the endeavours of the Secretary-General in the peaceful settlement of disputes. And finally, Section IV reflects constitutional discussions on the interpretation or application of the provisions of Chapter VI of the Charter and Article 99. This Part, however, does not discuss the practice of the Council with respect to the pacific settlement of disputes in an exhaustive manner but rather focuses on selected materials that highlight how the provisions of Chapter VI were interpreted and applied, during the period under review, in the decisions and deliberations of the Council. In addition, joint or parallel efforts undertaken by the Council and regional arrangements or agencies in the pacific settlement of disputes during the period under review are not covered in this Part but in Part VIII of this Supplement.

During the period 2012 and 2013, the Council continued to be seized of a high volume of matters and was actively engaged in the peaceful settlement of disputes in numerous situations worldwide. Given the increasingly intra-state and cross-border nature of disputes as well as the political sensitivities associated with new disputes or situations on its agenda, the Council continued its practice of often considering disputes or situations that were likely to or might

endanger international peace and security first in informal settings like its informal consultations of the whole¹ (as in the case of Mali); and/or in formal meetings under existing agenda items. The Council also considered cross-cutting issues such as piracy,² the challenges of the fight against terrorism in Africa in the context of maintaining international peace and security,³ and conflict prevention and natural resources⁴ as sub-items within existing thematic items of its agenda. Only in rare instances were disputes or situations discussed under new agenda items. The situation in Mali, for example, was first considered under the existing region-specific agenda item entitled “Peace and security in Africa”, and subsequently discussed under a new country-specific item entitled “The situation in Mali”.

The decisions of the Security Council during the period 2012 to 2013 reflect a multi-faceted approach to the situations on its agenda and to the pursuance of the pacific settlement of disputes. The deliberations in the Council during the period 2012-2013 reflect a renewed interest in strengthening the mechanisms for the peaceful settlement of disputes pursuant to Chapter VI of the Charter by means of, inter alia, referring disputes to the International Court of Justice, the increased involvement of women in peaceful settlement, the partnership with regional organizations in dealing with conflict, and the use of early warning mechanisms.

¹ See Part II, sect. I., with regard to other formats of informal consultations or meetings.

² See [S/PV.6865](#) and [S/PV.6865 \(Resumption 1\)](#).

³ See [S/PV.6965](#).

⁴ See [S/PV.6982](#) and [S/PV.6982 \(Resumption 1\)](#).

I. Referral of disputes or situations to the Security Council

Article 11

...

3. The General Assembly may call the attention of the Security Council to situations which are likely to endanger international peace and security.

Article 35

1. Any Member of the United Nations may bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Security Council or of the General Assembly.

2. A state which is not a Member of the United Nations may bring to the attention of the Security Council or of the General Assembly any dispute to which it is a party if it accepts in advance, for the purposes of the dispute, the obligations of pacific settlement provided in the present Charter.

3. The proceedings of the General Assembly in respect of matters brought to its attention under this Article will be subject to the provisions of Articles 11 and 12.

Article 99

The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.

Note

Articles 35 (1) and (2) of the Charter of the United Nations allow Member States and States which are not members of the United Nations to bring any dispute, “or any other situation”, to the attention of the Security Council.

Under Articles 11 (3) and 99, the General Assembly and the Secretary-General, respectively, may also bring to the attention of the Council situations or matters which are likely to or may threaten the maintenance of international peace and security.

The practice of the Council in this regard, during the period 2012 - 2013, is described below in three sub-sections. Subsection A provides an overview of the referrals of disputes or situations by States to the Security Council pursuant to Article 35. Subsections B and C include referrals by the Secretary-General and the General Assembly of matters which were likely to endanger international peace and security, in accordance with Articles 99 and 11 (3) of the Charter, respectively.

During the period under review, referrals by Member States and the Secretary-General of disputes or situations (in most cases without an explicit reference to Articles 35 or 99 respectively) continued to form the basis for the Council's consideration of matters, which it deemed likely to threaten the maintenance of international peace and security. In the case of referrals by the Secretary-General, in addition to communications, the referrals also took the form of briefings by the Secretary-General himself or his representatives – in formal as well as informal meetings.

As described in further detail in subsection A below, Member States brought seven disputes or situations to the attention of the Council in relation to a variety of geographic regions. All of them were brought to the attention of the Council by means of written communications by affected Member States or by third States.

Except for two communications (in relation to the situation between Ethiopia and Eritrea and the relations between Israel and the Sudan), most disputes or situations were considered under existing agenda items, namely, “The situation in the Middle East, including the Palestinian question”, “The situation concerning the Democratic Republic of the Congo”, and “The situation in Guinea-Bissau”. In relation to the Sudan and South Sudan, however, the Council considered the situation under a new, albeit reformulated, agenda item. The Council agreed that issues pertaining to the Sudan and South Sudan, including the African Union/United Nations Hybrid Operation in Darfur (UNAMID), the United Nations Interim Security Force for Abyei (UNISFA), the United Nations Mission in South Sudan (UNMISS) and Council resolution [2046](#)

(2012), would from 11 November 2013 on be considered under the agenda item entitled “Reports of the Secretary-General on the Sudan and South Sudan”.⁵

The Secretary-General brought to the attention of the Council, through the Under-Secretary-General for Political Affairs, the situation in Mali during the course of a briefing in the context of informal consultations of the whole. Subsequently, the situation in Mali became a separate agenda item of the Council in December 2012.

As a matter of fact, the Council may deal with new disputes or situations in the context of existing agenda items. The inclusion of a new item on the agenda of the Council does not actually imply the existence of a new dispute or situation.

The General Assembly, however, did not explicitly refer to the Council any matter likely to endanger international peace and security.

A. Referrals by States

Due to the vast array of communications addressed to the Security Council and consistent with the aim of the *Repertoire* to cover the evolving practice of the Council, this Section focuses exclusively on those communications addressed to the Council by Member States that (i) referred explicitly to Article 35, and/or (ii) drew the attention to and requested a particular action from the Council in relation to disputes or situations (regardless of whether the Council attended the request), whether or not leading to a new agenda item or sub-item. This approach departs from previous Supplements of the *Repertoire*. Hence, communications from Member States merely conveying information regarding a particular dispute or situation, but not requesting a meeting of the Council or any other specific action have not been included in this section.

The communications featured below, bringing disputes or situations to the attention of the Security Council, were addressed to the President directly by the affected Member State,⁶ or

⁵ See [S/2013/657](#).

⁶ See [S/2012/57](#), [S/2012/118](#), [S/2012/126](#), [S/2012/127](#), [S/2012/132](#), [S/2012/181](#), [S/2012/857](#), [S/2012/864](#), [S/2013/247](#), [S/2013/268](#), [S/2013/414](#), and [S/2013/517](#).

through a third State,⁷ or as in the case of Guinea-Bissau below, the communication, whilst requesting action from the Council, was addressed to the Secretary-General.⁸

In addition, during the period 2012 and 2013, the country-specific and regional situations referred to the Security Council described, were deemed likely to threaten international peace and security. All communications featured in this section describe the nature of the situation with a limited amount of detail or chronology of events. Whilst Chapter VI provides the basis for Member States to bring matters to the attention of the Council, the subject matter of communications submitted to the Council was not limited by the scope of Chapter VI. For example, in his communication below, the representative of Egypt labelled the situation in the Gaza strip as an “aggression”.⁹ The same was done by the representative of the Democratic Republic of the Congo in his letter concerning the alleged actions by Rwanda which he labelled as a “new aggression”.¹⁰ The representative of Jordan, on the other hand, deemed that the flow of Syrian refugees into Jordan threatened the stability and security of his country and had implications for international peace and security.¹¹

In his report on responsibility to protect of 25 July 2012, the Secretary-General affirmed the ability of any Member State, under Chapter VI of the Charter, to bring any dispute or situation, which would encompass the commission of crimes and violations relating to the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity, to the attention of the Council.¹² During the period under review, however, situations relating to, invoking or involving the responsibility to protect were not brought to the attention of the Council by any Member States.

Finally, the communications featured below requested a variety of actions from the Council; among them, that a meeting (or an extraordinary meeting) be held,¹³ that some concrete action or measure be taken,¹⁴ or that compliance with decisions of the Council be ensured.¹⁵ In

⁷ See [S/2012/840](#), and [S/2012/859](#).

⁸ [S/2012/254](#).

⁹ [S/2012/840](#).

¹⁰ [S/2012/857](#).

¹¹ [S/2013/247](#). In that letter the representative of Jordan made reference to Article 34 of the Charter in connection to his requests to the Council which included, inter alia, a request that the Security Council visit Jordan.

¹² See [S/2012/578](#), para. 41.

¹³ [S/2012/254](#), [S/2012/840](#), [S/2012/859](#), and [S/2013/517](#).

¹⁴ [S/2012/857](#), [S/2013/247](#), [S/2013/268](#), [S/2013/414](#) and [S/2013/517](#).

addition, the submitting States requested the Council to take “all necessary measures”,¹⁶ and to determine that a particular situation constituted a threat to international peace and security.¹⁷

1. Communications containing explicit references to Article 35

During the period 2012 to 2013, most communications from Members States to the Security Council bringing to its attention a “dispute” or “situation” did not cite any specific Article of the Charter. Article 35 of the Charter was explicitly cited, however, on two occasions in relation to disputes or situations in the Middle East.¹⁸ In response to both communications, the Council convened closed meetings to consider the situations brought to its attention.¹⁹ Both communications have been featured in table 1 below.

Table 1

Communications explicitly citing Article 35

<i>Communications</i>	<i>Action requested of the Security Council</i>	<i>Meeting and Date</i>
The situation in the Middle East, including the Palestinian question		
Letter dated 14 November 2012 from the Permanent Representative of Egypt to the United Nations addressed to the President of the Security Council (S/2012/840) ²⁰	In accordance with Article 35 of the Charter, to convene an urgent meeting of the Security Council to consider the ongoing unlawful Israeli military operation against the Palestinian people, and to assume its responsibilities in maintaining international peace and security by taking all necessary measures to stop the aggression immediately	S/PV.6863 (closed) 14 November 2012
The situation in the Middle East		
Letter dated 25 April 2013 from the Permanent Representative of Jordan to the United Nations addressed to the President of the Security Council (S/2013/247)	Invoking Article 35(1) of the Charter, to determine whether the grave humanitarian “situation” facing Jordan as a result of the influx of Syrian refugees constitutes a threat to international peace and security, to be invited to participate in a private meeting of the Security Council, and a visit to Jordan by the Security Council	S/PV.6957 (closed) 30 April 2013

¹⁵ [S/2012/158](#) and [S/2012/164](#).

¹⁶ [S/2012/840](#) and [S/2012/127](#).

¹⁷ [S/2013/247](#).

¹⁸ See letter dated 14 November 2012 from the Permanent Representative of Egypt ([S/2012/840](#)) and letter dated 25 April 2013 from the Permanent Representative of Jordan ([S/2013/247](#)).

¹⁹ See official communiqués of meetings [S/PV.6863](#) and [S/PV.6957](#).

²⁰ In a letter dated 20 November 2012, the representative of Morocco also requested an urgent open debate “to examine the grave consequences of the ongoing Israeli military attacks against the Palestinian people in Gaza” ([S/2012/859](#)).

2. Communications containing requests for particular action

During the period under review, most communications from Members States that drew the attention of the Security Council to a particular dispute or situation did not request any specific action but rather simply requested that the communication be circulated as a document of the Security Council. These communications have not been considered in this section since they seem immaterial to the interpretation and application of Article 35 of the Charter.

In addition to the explicit references of Article 35 featured in table 1, this section focuses on those communications that drew the attention of the Council to disputes or situations and requested a particular action from it regardless of whether such request was actually attended to. In the language of the Charter, disputes or situations brought to the Council pursuant to Article 35 (referencing Article 34) may lead to “international friction or give rise to a dispute” with the potential to endanger international peace and security.

Whilst most of the disputes or situations described below relate to ongoing disputes or situations of which the Council was already seized, they are featured below because they present new elements (which were brought to the attention of the Council) in the context of an ongoing dispute or situation with the potential of escalating, deteriorating or exacerbating an already existing dispute or situation. These communications, as well as the overall context in which they were submitted to the Council, are described below.

(i) *The Sudan and South Sudan*²¹

On 27 February 2012, the representative of the Sudan addressed a letter to the President of the Security Council informing the Council of the attack by some 1,500 insurgents of the Sudan People’s Liberation Movement, allegedly supported by officers and soldiers from the Sudan People’s Liberation Army of South Sudan.²² The representative, in his letter, demanded the Council to “shoulder its responsibilities” under the Charter by “sending a long-overdue message to the Government of South Sudan that it must end such actions.”²³ Further to that

²¹ The Council agreed that issues pertaining to the Sudan and South Sudan, would, as from 11 November 2013, be considered under the agenda item entitled “Reports of the Secretary-General on the Sudan and South Sudan”, see [S/2013/657](#).

²² [S/2012/118](#).

²³ *Ibid.*, p.2

complaint, on 29 February 2012, the representative of the Sudan further denounced the actions of the Government of South Sudan and requested the Council to “call on the Government of South Sudan to refrain immediately from its aggression and the assistance it renders to the various rebel movements.”²⁴ In response, on 2 March 2012, the representative of the Government of South Sudan addressed a letter to the President of the Security Council bringing to the attention of the Council the “unabated aggression” by the Sudan.²⁵ In this letter, the representative called upon the Council to “condemn these wanton acts of aggression ... and take stern measures against Khartoum to ensure that its flagrant aggression and attacks against the territory of South Sudan are halted.”²⁶ A series of communications ensued during 2012 regarding military incidents across the border between the two countries and in particular the occupation of the town of Higlig by South Sudan denounced by the representative of the Government of the Sudan.²⁷ On 22 March 2013, the representative of the Sudan informed the Council that a “credible source” had confirmed the imminent launching of an attack by forces of the armed rebel movements from Darfur and the Sudanese Revolutionary Front on an oil facility west of Kadugli Town, in the State of South Kordofan. In the communication, he vehemently requested that the Council condemn this negative move by the rebel movements of the Sudanese Revolutionary Front, intended to spoil the peace process.²⁸ On 6 May 2013, the representative of South Sudan addressed a letter to the President of the Council drawing attention to the killing of Kuol Deng Kuol, the Paramount Chief of the Ngok Dinka by elements of the Messeriya Arab militia of the Sudan in “flagrant violation of Security Council resolutions and agreements.”²⁹ In his letter, he requested a series of measures from the Council.

(ii) *Eritrea and Ethiopia*

On 14 March 2012, Ethiopia, denounced the “destabilizing activities” of the Eritrean Government,³⁰ including acts of terrorism, and urged the Council to ensure that Eritrea comply

²⁴ [S/2012/127](#), p. 2.

²⁵ [S/2012/132](#).

²⁶ *Ibid.*, p.2.

²⁷ [S/2012/10](#) and [S/2012/252](#).

²⁸ [S/2013/183](#).

²⁹ [S/2013/268](#).

³⁰ This letter came after the communications from Eritrea bringing to the attention of the Council incidents involving alleged military activities by Ethiopia in the border between the two countries and requesting a series of actions from the Council ([S/2012/57](#) and [S/2012/126](#)).

with relevant resolutions and desist from destabilizing activities.³¹ In a letter dated 16 March 2012 addressed to the President of the Security Council, the Minister for Foreign Affairs of Eritrea, in reference to the alleged incursion of Ethiopian troops “18 kms deep into Eritrean territory”, urged the Council to “shoulder its legal and moral responsibilities and take appropriate measures to rectify acts of aggression against Eritrea’s sovereign territory and to ensure justice and respect for the rule of law.”³² Further, in a letter dated 27 March 2012 addressed to the President of the Security Council, the President of Eritrea requested the Council to form an “independent, transparent and accountable inquiry body” to investigate the alleged implication of the United States Government in the illegal attacks perpetrated by Ethiopia against Eritrea.³³

(iii) *Guinea-Bissau*

On 9 April 2012, the Prime Minister of Guinea-Bissau addressed a letter to the Secretary-General informing him that his country “could come to face a new cycle of internal political instability, owing to the non-acceptance of the electoral results”.³⁴ In his letter he requested that the Security Council “analyze at an extraordinary meeting the internal situation of Guinea-Bissau” and “debate the dispatch of a peacekeeping force to Guinea-Bissau”.³⁵ On 13 April 2012, the Assistant Secretary-General for Political Affairs briefed the Council in closed consultations on the military seizure of power in Guinea-Bissau that had occurred on 12 April 2012.³⁶

(iv) *The Sudan and Israel*

By a letter dated 17 November 2012 addressed to the President of the Council, the representative of the Sudan, in his capacity as Chair of the Arab Group, requested the Council “to take the appropriate measures to condemn” the aerial bombardment by the Israeli Air Force of the Yarmouk military factory in Khartoum that took place on 24 October 2012.³⁷ This request followed the letter dated 25 October 2012 from the representative of the Sudan addressed to the President of the Council (further to a meeting with him), in which he

³¹ [S/2012/158](#).

³² [S/2012/164](#).

³³ [S/2012/181](#).

³⁴ [S/2012/254](#), p.3.

³⁵ Ibid.

³⁶ [S/2012/626](#), pp.2.

³⁷ [S/2012/864](#).

condemned the “barbaric aggression” and expressed the expectation that the Council would “take appropriate measures accordingly”.³⁸ Moreover, in the context of a meeting of the Council on 24 October 2012 to consider the report of the Secretary-General on the African Union-United Nations Mission in Darfur (UNAMID), the representative of the Sudan made reference to the incident and said that he expected the Council to condemn the attack because “it was a blatant violation of the concept of peace and security and of the principles and purposes of the Charter”.³⁹

(v) *The Democratic Republic of the Congo*

On 19 November 2012, the representative of the Democratic Republic of the Congo addressed a letter to the President of the Security Council informing about “continuing attacks by troops of the Rwandan regular army.” In his letter, the representative called on the Council to, inter alia, condemn the “new aggression by Rwanda” and requested the Council to convene an urgent open meeting to consider this question.⁴⁰ The Council held a meeting on the situation concerning the Democratic Republic of the Congo on 20 November 2012. Whilst no explicit reference was made to this particular letter, in his statement following the adoption of resolution [2076 \(2012\)](#), the representative of Rwanda questioned the description of events in the letter.⁴¹ On 15 July 2013, the Democratic Republic of the Congo drew the attention of the Council to “the renewed fighting in North Kivu” and urged the Council to, inter alia, “condemn the renewed fighting” and to order the “immediate and unconditional withdrawal of the Rwandan special forces from the territory of the Democratic Republic of the Congo.”⁴² In a subsequent letter to the President of the Council dated 16 July 2013, the representative of Rwanda informed of deliberate bombings on Rwandan territory from a region controlled by the Armed Forces of the Democratic Republic of the Congo (FARDC) and MONUSCO and requested the Council to “take all appropriate measures” to ensure the immediate cessation of such bombings.⁴³ On 23 August 2013, the representative of the Democratic Republic of the Congo drew the attention of the Council to the situation in North Kivu denouncing in particular the attacks by the M23, and

³⁸ [S/2012/790](#).

³⁹ See [S/PV.6851](#), p. 5.

⁴⁰ [S/2012/857](#).

⁴¹ [S/PV.6866](#), p. 4 (Rwanda).

⁴² [S/2013/414](#).

⁴³ [S/2013/426](#).

requested the Council to take a series of actions, including condemning the attacks by the M23 and ordering the immediate and unconditional withdrawal of the regular units of the Rwandan army from the territory of the Democratic Republic of the Congo.⁴⁴ By letter of 29 August 2013 to the President of the Council, the representative of the Democratic Republic of the Congo called for an emergency meeting of the Council in light of the escalation of hostilities in eastern Congo.⁴⁵

None of the above communications led to the inscription of a new item on the agenda of the Council. It should be noted, however, as also mentioned above, that with regard to the Sudan and South Sudan, on 11 November 2013, the Council agreed that, as of that date, issues pertaining to these two countries would be considered under the agenda item entitled “Reports of the Secretary-General on the Sudan and South Sudan”.⁴⁶ The communications concerning the relations between Israel and the Sudan and the situation between Eritrea and Ethiopia were not discussed by the Council.⁴⁷

B. Referrals by the Secretary-General

Article 99 of the Charter provides that the Secretary-General may bring to the attention of the Security Council any matter which, in his opinion, may threaten the maintenance of international peace and security. During the period under review, the Secretary-General did not invoke Article 99, directly or by implication.

As with Article 35, Article 99 of the Charter does not specify the means by which the Secretary-General may bring to the attention of the Security Council any matter that may threaten the maintenance of international peace and security. In recent years, the practice of the Council has broadened and the horizon-scanning briefings in the context of informal consultations among the members of the Council have become one of the tools available to the Secretary-General for bringing to the attention of the Council new situations. Albeit

⁴⁴ [S/2013/512](#).

⁴⁵ [S/2013/517](#).

⁴⁶ See [S/2013/657](#).

⁴⁷ See Reports of the Security Council to the General Assembly at its sixty-seventh and sixty-eighth sessions (A/67/2 and A/68/2).

controversial, during the period under review, the use of horizon-scanning briefings was acknowledged by some members of the Council (in relation to Mali in particular) to be a useful tool for the Council's prevention efforts.⁴⁸

On 10 February 2012, during the course of a horizon-scanning briefing in the context of informal consultations, the Under-Secretary-General for Political Affairs briefed the members of the Council on the impact of actions carried out in Mali by an armed group allegedly affiliated to the Mouvement National pour la Libération de l'Azawad, which was seeking the independence of the north and had caused the movement of 15,000 displaced persons and refugees.⁴⁹ The Council continued to discuss the situation in Mali during the year 2012 under the agenda item "Peace and Security in Africa".⁵⁰ However, as of 20 December 2012, the situation in Mali as such became a separate agenda item, by virtue of a note of the President of the Security Council which established that "earlier consideration by the Council of [issues pertaining to Mali] under the agenda item entitled 'Peace and security in Africa'" would be subsumed under the agenda item entitled "The situation in Mali".⁵¹

C. Referrals by the General Assembly

Under Article 11 (3) of the Charter, the General Assembly may call the attention of the Security Council to situations which are likely to endanger international peace and security. During the period under review, the General Assembly did not refer any matters to the Security Council under this Article.

⁴⁸ [S/2013/280](#), p. 10, and [S/2014/213](#), p. 12.

⁴⁹ See Report of the Security Council to the General Assembly at its sixty-seventh (A/67/2), p. 23. During the discussions of the tenth annual workshop of newly elected members of the Security Council (Finnish workshop) in November 2012, horizon-scanning briefings were mentioned as a way of "drawing the members' attention to emerging threats to international peace and security" (see [S/2013/280](#), at p. 10). The case of Mali was mentioned as an example.

⁵⁰ In October 2012, the Secretary-General transmitted a communication from the interim President and Prime Minister of Mali requesting action from the Council ([S/2012/727](#)).

⁵¹ See [S/PV.6898](#) and [S/2012/961](#).

II. Investigation of disputes and fact-finding

Note

Article 34

The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.

Article 34 of the Charter of the United Nations provides that the Security Council may investigate any dispute or any situation which might lead to international friction or give rise to a dispute. On this basis, the Security Council may determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.

The language of Article 34 does not exclude the Secretary-General or other organs from performing investigative functions nor does it limit the Council's general competence to obtain knowledge of the relevant facts of any dispute or situation by dispatching a fact-finding or investigative mission.

Therefore, Section II provides an overview of the practice of the Security Council relating to fact-finding and investigation in accordance with Article 34 of the Charter and is divided into three subsections: A. Security Council missions; B. Investigative and fact-finding functions of the Secretary-General; and C. Other instances of investigative functions acknowledged by the Security Council.

During the period under review, the Council dispatched five missions in order to, inter alia, support countries and Governments on its agenda and to assess the situation on the ground as well as the implementation of its resolutions. The Security Council also acknowledged and welcomed the investigative functions of the Secretary-General in relation to the Syrian Arab Republic and requested him to establish a commission of inquiry in the Central African Republic to investigate reports of violations of international humanitarian and international human rights law by all parties since 1 January 2013. Finally, the Council acknowledged and relied upon the

investigations conducted by organs other than the Secretary-General, such as the Human Rights Council, in considering the items on its agenda.

A. Security Council missions

During the period under review, the Security Council dispatched five missions to: (i) Haiti; (ii) West Africa (Liberia, Côte d'Ivoire and the Economic Community of West African States (ECOWAS) and Sierra Leone); (iii) Timor-Leste; (iv) Yemen; and (v) Africa (Democratic Republic of the Congo, Rwanda, Uganda, and Ethiopia). None of the Council missions in the period under review were charged with investigative tasks. In most cases, the terms of reference of the missions included tasks such as, (i) reiterating, reaffirming or expressing the support of the Council to the Governments and countries visited, (ii) assessing the implementation of relevant Security Council resolutions, (iii) assessing the evolution of the situation on the ground, or (iv) supporting, reviewing and assessing the role and mandate of the relevant peacekeeping and political missions. For details on the Security Council missions that were dispatched during the period 2012 and 2013, including duration, composition and related documents, see table 2 below.

Table 2

Security Council missions in 2012 to 2013

<i>Duration</i>	<i>Destination</i>	<i>Composition</i>	<i>Terms of reference</i>	<i>Report</i>	<i>Meeting and date</i>	<i>Agenda item</i>
13 to 16 February 2012	Haiti	United States (head of mission), Azerbaijan, Colombia, France, Germany, Guatemala, India, Morocco, Pakistan, Portugal, Russian Federation, South Africa, Togo, United Kingdom ⁵²	S/2012/82	S/2012/534	S/PV.6724 28 February 2012	Security Council mission
18 to 24 May 2012	West Africa (Liberia, Côte d'Ivoire and ECOWAS, and Sierra Leone)	United States and Morocco (co-heads of mission for Liberia), France and Togo (co-heads of mission for Côte d'Ivoire and ECOWAS), United Kingdom and South Africa (co-heads of	S/2012/344	S/2014/242	S/PV.6777 31 May 2012	Security Council mission

⁵² The representative of China was unable to join the mission.

<i>Duration</i>	<i>Destination</i>	<i>Composition</i>	<i>Terms of reference</i>	<i>Report</i>	<i>Meeting and date</i>	<i>Agenda item</i>
		mission for Sierra Leone), Azerbaijan, China, Colombia, Germany, Guatemala, India, Pakistan, Portugal, Russian Federation				
1 to 7 November 2012	Timor-Leste	South Africa (head of mission), Azerbaijan, India, Pakistan, Portugal, Togo	S/2012/793	S/2012/889	S/PV.6858 12 November 2012	Security Council mission
27 January 2013	Yemen	United Kingdom and Morocco (co-heads of mission), Argentina, Australia, Azerbaijan, China, France, Guatemala, Luxembourg, Pakistan, Republic of Korea, Russian Federation, Rwanda, Togo,	S/2013/61	S/2013/173	S/PV.6916 7 February 2013	Security Council mission
3 to 9 October 2013	Africa (Democratic Republic of the Congo, Rwanda, Uganda and Ethiopia)	France and Morocco (co-heads of mission for Democratic Republic of the Congo), United States (head of mission for Rwanda), United Kingdom (head of mission for Uganda), Azerbaijan and Rwanda (co-heads of mission for Ethiopia), Argentina, Australia, China, Guatemala, Luxembourg, Pakistan, Republic of Korea, Russian Federation, Togo	S/2013/579	S/2014/341	S/PV.7045 21 October 2013	Security Council mission

On 26 November 2012, further to the concept note from the representatives of India and Portugal,⁵³ the Council held an open debate on the Implementation of the note by the President of the Security Council ([S/2010/507](#)) in the context of which several Council members made reference to the use of missions by the Council.⁵⁴ The representative of France emphasized the need to draw greater advantage from such missions by defining the objectives more specifically and by ensuring a follow-up to the conclusions drawn.⁵⁵ The representative of South Africa, on the other hand, asserted that “field visits” of the Council continued to be an important vehicle for the Council’s understanding of the situation on the ground and for its ability to make informed

⁵³ [S/2012/853](#).

⁵⁴ [S/PV.6870](#).

⁵⁵ *Ibid.*, p. 15.

decisions. He added that the Council should consider increasing such visits, including “mini-missions” by the Chairs of subsidiary bodies.⁵⁶

B. Investigative and fact-finding functions of the Secretary-General

During the two-year period under review, the Security Council, in its decisions, acknowledged the investigative or fact-finding functions of the Secretary-General on two occasions.

In the context of the armed conflict in the Syrian Arab Republic and further to the alleged use of chemical weapons against civilians on 21 August 2013, in resolution [2118 \(2013\)](#), the Council welcomed the establishment by the Secretary-General of a mission to investigate the allegations of the use of chemical weapons in Syria, pursuant to General Assembly resolution [42/37 C \(1987\)](#).⁵⁷ Further to the resolution, the Secretary-General addressed a letter, dated 7 October 2013, to the Council containing recommendations regarding the role of the United Nations in eliminating the chemical weapons programme of the Syrian Arab Republic.⁵⁸ In that letter, the Secretary-General made reference to his reporting to the Council, on 16 September 2013, on the results of the investigation by the United Nations Mission to Investigate Allegations of the Use of Chemical Weapons in the Syrian Arab Republic of the incident that took place on 21 August 2013 in the Ghouta area of Damascus.

In light of the rapidly deteriorating security situation in the Central African Republic characterized by “a total breakdown of law and order”, “the absence of rule of law, and “intersectarian tensions”, on 5 December 2013, the Council adopted resolution [2127 \(2013\)](#), in which it requested the Secretary-General to rapidly establish an international commission of inquiry for an initial period of one year to investigate reports of, compile information on, and help identify (and ensure accountability for) perpetrators of violations of international humanitarian law, international human rights law and abuses of human rights in the Central

⁵⁶ Ibid., p. 16.

⁵⁷ Resolution [2118 \(2013\)](#), sixth and seventh preambular paragraphs.

⁵⁸ [S/2013/591](#).

African Republic since 1 January 2013.⁵⁹ For all the relevant provisions of the decisions, see table 3 below.

Table 3

Decisions relating to investigative and/or fact-finding activities by the Secretary-General in 2012-2013

<i>Decision and date</i>	<i>Provision</i>
The situation in the Middle East	
Resolution 2118 (2013) 27 September 2013	<p>Welcoming the establishment by the Secretary-General of the United Nations Mission to Investigate Allegations of the Use of Chemical Weapons in the Syrian Arab Republic (the Mission) pursuant to General Assembly resolution 42/37C (1987) of 30 November 1987, and reaffirmed by resolution 620 (1988) of 26 August 1988, and expressing appreciation for the work of the Mission (sixth preambular paragraph)</p> <p>Acknowledging the report of 16 September 2013 (S/2013/553) by the Mission, underscoring the need for the Mission to fulfil its mandate, and emphasizing that future credible allegations of chemical weapons use in the Syrian Arab Republic should be investigated (seventh preambular paragraph)</p> <p>Decides to authorize an advance team of United Nations personnel to provide early assistance to requests the Director-General of the OPCW and the Secretary-General to closely cooperate in the implementation of the Executive Council decision of 27 September 2013 and this resolution, including through their operational activities on the ground, and further requests the Secretary-General, in consultation with the Director-General of the OPCW and, where appropriate, the Director-General of the World Health Organization, to submit to the Council within 10 days of the adoption of this resolution recommendations regarding the role of the United Nations in eliminating the Syrian Arab Republic's chemical weapons program (para. 8)</p> <p>Encourages Member States to provide support, including personnel, technical expertise, information, equipment, and financial and other resources and assistance, in coordination with the Director-General of the OPCW and the Secretary-General, to enable the OPCW and the United Nations to implement the elimination of the Syrian Arab Republic's chemical weapons program, and decides to authorize Member States to acquire, control, transport, transfer and destroy chemical weapons identified by the Director - General of the OPCW, consistent with the objective of the Chemical Weapons Convention, to ensure the elimination of the Syrian Arab Republic's chemical weapons program in the soonest and safest manner (para. 10)</p> <p>Decides to review on a regular basis the implementation in the Syrian Arab Republic of the decision of the OPCW Executive Council of 27 September 2013 and this resolution, and requests the Director-General of the OPCW to report to the Security Council, through the Secretary-General, who shall include relevant information on United Nations activities related to the implementation of this resolution, within 30 days and every month thereafter, and requests further the Director-General of the OPCW and the Secretary-General to report in a coordinated manner, as needed, to the Security Council, non-compliance with this resolution or the OPCW Executive Council decision of 27 September 2013 (para. 12)</p>
The situation in the Central African Republic	
Resolution 2127 (2013) 5 December 2013	<p>Requests that the Secretary-General rapidly establish an international commission of inquiry for an initial period of one year, including experts in both international humanitarian law and human rights law, in order immediately to investigate reports of violations of international humanitarian law, international human rights law and abuses of human rights in CAR by all parties since 1 January 2013, to compile information, to help identify the perpetrators of such violations and abuses, point to their possible</p>

⁵⁹ Resolution [2127 \(2013\)](#), third preambular paragraph and para. 24.

<i>Decision and date</i>	<i>Provision</i>
	criminal responsibility and to help ensure that those responsible are held accountable, and calls on all parties to cooperate fully with such a commission (para. 24)
	Further requests the Secretary-General to report to the Security Council on the findings of the commission of inquiry six months and one year after the adoption of this resolution (para. 25)

In addition, during the period under review, the Secretary-General dispatched, on his own initiative, two field missions for purposes of assessing the scope of the threat of piracy in the Gulf of Guinea, on the one hand, and the scope of the threat of the Libyan crisis in the region of the Sahel, on the other.

By the letter dated 17 January 2012, the Secretary-General transmitted to the Security Council the report of the mission dispatched to the Sahel region to assess the scope of the threat of the Libyan crisis in the region and the national and wider international capacities to respond to those challenges.⁶⁰ The report was considered by the Council on 26 January 2012, during its 6709th meeting, under the item entitled “Peace and Security in Africa”. During the meeting, the Under-Secretary-General for Political Affairs briefed the Council on the findings of the mission as well as on its recommendations.⁶¹ Speakers welcomed the Secretary-General’s initiative in dispatching the mission as well as the report prepared by the assessment mission.⁶² At the 6717th meeting, an open debate held on 21 February 2012 under the same agenda item, the Council considered again the report of the mission. Several speakers took note of the Secretary-General’s initiative in dispatching the assessment mission,⁶³ and some of those speakers urged serious consideration of its findings and recommendations.⁶⁴

In addition, by the letter dated 18 January 2012, the Secretary-General brought to the attention of the Council the report of the assessment mission dispatched to the Gulf of Guinea to assess the scope of the threat of piracy in the region, take stock of national and regional capacities to ensure maritime safety and security in the region and make recommendations for a

⁶⁰ [S/2012/42](#).

⁶¹ [S/PV.6709](#), p. 2.

⁶² Ibid. p. 6 (India), p.7 (Russian Federation), p. 9 (Germany), p. 10 (United States), p. 13 (Guatemala), p.14 (Azerbaijan), and p.16 (Togo).

⁶³ [S/PV.6717](#), p. 3 (Togo), p. 21 (Azerbaijan); [S/PV.6717 \(Resumption 1\)](#), p. 8 (Japan), and p. 20 (Mali).

⁶⁴ Ibid., p. 14 (Colombia), p. 21 (Azerbaijan); [S/PV.6717 \(Resumption 1\)](#), p. 18 (Australia).

possible United Nations response.⁶⁵ The Council considered the report during its 6723rd meeting, held on 27 February 2012, under the agenda item entitled “Peace consolidation in West Africa: Piracy in the Gulf of Guinea”.⁶⁶ During the meeting, speakers welcomed the Secretary-General’s initiative to dispatch the assessment mission.⁶⁷ The representatives of South Africa and Togo shared the concern and observation of the assessment mission that the growing evidence of piracy in the Gulf of Guinea constituted yet another major threat to the peace, security and the economic interests of the countries of the region.⁶⁸

Of particular interest during the period under review was the action of the Council in connection with the establishment of a fact-finding mission to investigate the alleged use of chemical weapons in the Syrian Arab Republic. Case 1 below compiles the most significant milestones in the establishment of the mission.

Case 1

The situation in the Middle East

On 24 April 2013, the Security Council held its 6950th meeting. During the open debate, the Under-Secretary-General for Political Affairs informed the Council that the Secretariat was in discussions with the Government of the Syrian Arab Republic on the scope and modalities for the United Nations fact-finding mission to investigate the alleged use of chemical weapons.⁶⁹ Against the backdrop of conflicting allegations of attacks with chemical weapons by the Government forces and the rebel forces, he clarified that the Secretary-General intended to ensure that all credible allegations brought to his attention by Member States were considered and, if deemed necessary, investigated.⁷⁰ He added that the position of the Secretary-General, at that stage, was to investigate the allegations about incidents of the use of chemical weapons in the cities of Aleppo and Homs.⁷¹ He further informed that the investigators were studying the

⁶⁵ [S/2012/45](#).

⁶⁶ The report was also acknowledged by a number of speakers during the 6717th meeting of the Council. [S/PV.6717](#), p. 11 (Morocco), p. 14 (Colombia), p. 30 (Benin); [S/PV.6717 \(Resumption 1\)](#), p. 8 (Japan), p. 9 (Tunisia), and p. 12 (Luxembourg).

⁶⁷ [S/PV.6723](#), p. 7 (Azerbaijan), p.10 (Pakistan), and p.20 (Togo).

⁶⁸ [S/PV.6723](#), p. 15 (South Africa) and p. 20 (Togo).

⁶⁹ [S/PV.6950](#), p. 5.

⁷⁰ *Ibid.*

⁷¹ *Ibid.*

information on the alleged incidents involving the use of chemical weapons provided to them by Member States, while awaiting access to the Syrian territory. A number of speakers expressed their support to the efforts of the Secretary-General to investigate all allegations of the use of chemical weapons in Syria.⁷² The representative of the Russian Federation, however, urged Member States not to yield to attempts to sidestep the investigation requested by the Syrian authorities regarding the use of chemical weapons near Aleppo on 19 March 2013.⁷³ He also criticized the Secretariat for not having shown the requisite consistency and transparency on this matter.⁷⁴

On 23 July 2013, during the open debate held at the 7007th meeting of the Security Council, the Special Coordinator for the Middle East Peace Process and Personal Representative of the Secretary-General informed the Council that the High Representative for Disarmament Affairs and the Head of the fact-finding mission would be visiting Damascus to complete consultations on the modalities of cooperation required for the proper, safe and efficient conduct of the United Nations investigation mission.⁷⁵ Speakers urged the Syrian authorities to grant full access to the United Nations investigations into all allegations.⁷⁶

On 27 September 2013, the Council held its 7038th meeting, a high level meeting, during the course of which it adopted resolution [2118 \(2013\)](#), featured above. In paragraph 8 of resolution [2118 \(2013\)](#), the Council requested the Secretary-General to submit to the Council recommendations regarding the role of the United Nations in eliminating the Syrian Arab Republic's chemical weapons program in support of the Organization for the Prohibition of Chemical Weapons (OPCW).⁷⁷ Further to resolution [2118 \(2013\)](#), the Secretary-General addressed a letter to the President of the Council, in which he proposed a Joint Mission of OPCW and the United Nations to implement the roles and responsibilities of each organization pursuant to resolution [2118 \(2013\)](#) and eliminate the chemical weapons programme of the Syrian

⁷² Ibid., p. 12 (United States), P. 17 (United Kingdom), p. 21 (Australia); [S/PV.6950 \(Resumption 1\)](#), p. 13 (European Union), p. 15 (Japan), and p. 34 (Qatar).

⁷³ [S/PV.6950](#), p. 19.

⁷⁴ Ibid.

⁷⁵ [S/PV.7007](#), p. 5.

⁷⁶ Ibid., p. 17 (Australia), p. 18 (Republic of Korea), p. 20 (Pakistan), pp. 25-26 (France), p. 27 (United Kingdom), p. 29 (United States), and p. 36 (European Union).

⁷⁷ Annex I of resolution [2118 \(2013\)](#) included OPCW's Executive Decision of 27 September 2013, which required the Syrian Arab Republic, consistent with its obligations under the Chemical Weapons Convention, to submit information on its chemical weapons as well as on weapons storage and production facilities and to cooperate with inspections.

Arab Republic.⁷⁸ The Council held no formal meeting to consider the letter from the Secretary-General. Instead, the President of the Security Council addressed a letter to the Secretary-General authorizing the establishment of the OPCW-United Nations Joint Mission.⁷⁹ The first monthly report of the Joint Mission was transmitted to the Security Council by letter from the Secretary-General to the President of the Security Council on 28 October 2013.⁸⁰

C. Other instances of investigative functions acknowledged by the Security Council

During the period under review, the Security Council recognized investigative functions performed by the United Nations High Commissioner for Human Rights and the Human Rights Council in relation to matters on the agenda of the Council. Table 4 below features the provisions of decisions of the Council referring to such functions.

Table 4

Decisions relating to investigation and inquiry by other bodies of the United Nations acknowledged by the Security Council in 2012-2013

<i>Decision and date</i>	<i>Provision</i>
The situation in Timor-Leste	
Resolution 2037 (2012) 23 February 2012	Reaffirming the need for respect for the independence of the judiciary, stressing the need to act against impunity, while noting the continuing serious resource constraints of the judicial system and the Government's efforts to address these challenges, encouraging the leadership of Timor-Leste to continue to increase its efforts to establish accountability for serious criminal offences including those committed during the 2006 crisis, as recommended by the Independent Special Commission of Inquiry (seventh preambular paragraph) Reaffirms the importance of ongoing efforts to achieve accountability and justice, expresses its support for the work of UNMIT in assisting the Government of Timor-Leste in this regard within its mandate, as well as for the initiatives to strengthen the Office of the Provedor for Human Rights and Justice, and underlines the importance of the implementation by the Government of Timor-Leste of the recommendations of the United Nations Special Commission of Inquiry report of 2006 (S/2006/822), including paragraphs 225 through 228 of the report (para. 10) Requests UNMIT to continue its efforts, adjusting them as necessary to enhance the effectiveness of the judiciary, in assisting the Government of Timor-Leste in carrying out the proceedings recommended by the Commission of Inquiry (para. 12)

⁷⁸ [S/2013/591](#).

⁷⁹ [S/2013/663](#).

⁸⁰ [S/2013/629](#).

<i>Decision and date</i>	<i>Provision</i>
The situation in Libya	
Resolution 2040 (2012) 12 March 2012	Taking note of its briefing by the High Commissioner for Human Rights on 25 January 2012 and the report of the International Commission of Inquiry on Libya to the Human Rights Council of 2 March 2012 (A/HRC/19/68) (eighteenth preambular paragraph)

In addition, by a statement by the President dated 12 February 2013 in connection with the “Protection of civilians”, the Council recognized international commissions of inquiry and fact-finding missions as valuable mechanisms to verify and investigate allegations of serious violations of international human rights and humanitarian law. In the same statement, the Council considered the possibility of using the International Fact-Finding Commission established in accordance with Article 90 of the First Additional Protocol to the Geneva Conventions.⁸¹ In resolution [2122 \(2013\)](#), the Council further invited United Nations-established Commissions of Inquiry investigating situations on the Council’s agenda to include in their briefings information on the differentiated impacts of armed conflict on women and girls.⁸²

As reported in a letter from the Permanent Representative of Portugal to the President of the Security Council dated 18 May 2012 the participants of the panel on fact-finding mechanisms dwelled on the challenges for fact-finding bodies as well as on the factors that contributed to their success.⁸³ An element that was raised in those discussions was the importance of the timing of the establishment of these mechanisms, highlighting that their work should take place sufficiently early in a crisis to enable them to contribute to the prevention of further violations rather than just investigate those already committed. On the possible role of the Council, it was suggested that it should be more systematically apprised of the reports of the non-Council mandated commissions or missions. It was also highlighted that the Council could reinforce or support non-Council fact-finding missions by means of requesting States and other actors to cooperate in the investigation or in the implementation of the recommendations. Examples of recent Council practice were noted, such as the reference, in resolution [2000 \(2011\)](#), to the report

⁸¹ [S/PRST/2013/2](#), eighth paragraph.

⁸² Resolution [2122 \(2013\)](#), para. 2(e).

⁸³ The report was transmitted by the Permanent Representative of Portugal to the President of the Security Council on 18 May 2012 and issued as a document of the Council, [S/2012/373](#).

and findings of the International Commission of Inquiry on Côte d'Ivoire mandated by the Human Rights Council.⁸⁴

The three cases below illustrate instances in which the Security Council considered the outcome of fact-finding missions by bodies of the United Nations, other than the Secretary-General in relation to the situation in the Middle East and the situation in Libya.

Case 2

The situation in the Middle East

On 4 February 2012, the Security Council held its 6711th meeting to consider a draft resolution in relation to the Syrian conflict. In spite of receiving 13 votes in favour, the draft resolution was not adopted owing to the negative votes of two permanent members of the Security Council. The draft resolution would have demanded that the Syrian authorities cooperate fully with the Office of the High Commissioner for Human Rights and with the Commission of Inquiry dispatched by the Human Rights Council.⁸⁵ During the debate that followed the non-adoption, the representative of Germany regretted that the draft resolution did not mandate a commission of inquiry into human rights violations, as his country had advocated, which was due to the spirit of compromise in the negotiations.⁸⁶

On 23 July 2013, the Council held its 7007th meeting during which several speakers expressed concern about the findings of the recent report of the Independent International Commission of Inquiry to Syria (A/HRC/23/58), confirming a wide range of violations of international humanitarian and human rights law, and called for holding those responsible fully accountable.⁸⁷

Case 3

The situation in the Middle East, including the Palestinian question

⁸⁴ [S/2012/373](#), p. 10.

⁸⁵ [S/2012/77](#), para. 11.

⁸⁶ [S/PV.6711](#), p. 5.

⁸⁷ [S/PV.7007](#), p. 19 (Rwanda), p. 27 (United Kingdom), and p. 36 (European Union).

On 23 April 2012, the Security Council held its 6757th meeting. During the debate, a number of speakers welcomed the resolution of 22 March 2012 adopted by the Human Rights Council authorizing, inter alia, a fact-finding mission on the impact of the settlements on the human rights situation in the occupied Palestinian territories.⁸⁸

On 24 April 2013, the Council held yet another open debate during its 6950th meeting on the situation in the Middle East, including the Palestinian question. During such debate again some speakers welcomed the decision of the Human Rights Council to establish an independent international fact-finding mission to investigate the implications of Israeli settlements on the human rights of the Palestinian people throughout the occupied territories.⁸⁹ The representative of the United Kingdom made also reference to incidents involving the Israel Defense Forces and recalled that it had called for an investigation into those clashes and welcomed the investigations by the Government of Israel, while looking forward to perpetrators being held to account.⁹⁰ The representative of Pakistan, on his part, stated that the United Nations Independent International Fact-Finding Mission on the Gaza Conflict, established by the Human Rights Council, pronounced that Israeli settlements symbolized the acute lack of justice experienced by the Palestinian people.⁹¹ In addition, the representative of Pakistan called for an independent investigation into the death of Arafat Jaradat in Israeli custody and to bring perpetrators to justice.⁹²

During the Council's 7007th meeting, on 23 July 2013, the representative of Malaysia, as a member of the United Nations Special Committee to Investigate Israeli Practices in the Occupied Palestinian Territories, reported on his participation in a Human Rights Council fact-finding mission to Amman and Cairo and affirmed that the situation in the Palestinian territory continued to deteriorate.⁹³

Case 4

The situation in Libya

⁸⁸ [S/PV.6757](#), p. 18 (Morocco), p. 23 (Pakistan), and [S/PV.6757 \(Resumption 1\)](#) p. 12 (Bangladesh) and p. 14 (Iceland).

⁸⁹ S/PV.6950, pp. 23 - 24 (Pakistan), [S/PV.6950 \(Resumption 1\)](#), p. 32 (Turkey).

⁹⁰ [S/PV.6950](#), p. 17.

⁹¹ *Ibid.*, p. 23.

⁹² *Ibid.*, p. 24.

⁹³ [S/PV.7007](#), p. 41.

On 7 March 2012, the Security Council held its 6731st meeting to consider the report of the Secretary-General on the United Nations Support Mission in Libya (UNSMIL).⁹⁴ The Special Representative of the Secretary-General and Head of UNSMIL informed the Council that the mission intended to give high priority to supporting the Libyan authorities and civil society in ensuring that the transition in Libya was anchored in solid rule of law systems, institutions and practices, and in respect for human rights, which would be consistent with the specific recommendations for the role of UNSMIL made by the report of the International Commission of Inquiry on Libya (A/HRC/19/68).⁹⁵ The representative of Libya stated that the human rights situation was one of the main concerns of the Government and confirmed its cooperation with the International Commission of Inquiry during its field visits to various Libyan cities and regions.⁹⁶

Speakers had differing views on the conclusions contained in the report of the International Commission of Inquiry. While the representative of the Russian Federation highlighted that the dozens of civilians casualties reported by the Commission of Inquiry were due to the NATO airstrikes on Libya⁹⁷ and the representative of China mentioned that the report explicitly stated that certain targets were not military facilities,⁹⁸ the representatives of the United States and France underlined the conclusion of the report that NATO had conducted such airstrikes with a demonstrable determination to avoid civilian casualties.⁹⁹

On 16 May 2012, at its 6772nd meeting, the Council was briefed by the Prosecutor of the International Criminal Court (ICC) who acknowledged that the report of the Commission of Inquiry (A/HRC/17/44) presented a comprehensive view of the crimes committed in Libya.¹⁰⁰ In addition, he mentioned that the same report had found that NATO had not deliberately targeted civilians in Libya and informed the Council that the Office of the Prosecutor had requested additional information on the five incidents reportedly producing civilian casualties.¹⁰¹ The representative of the United Kingdom underlined the efforts of NATO to minimize civilian

⁹⁴ [S/2012/129](#).

⁹⁵ [S/PV.6731](#), pp. 3 - 4.

⁹⁶ *Ibid.*, p. 6.

⁹⁷ *Ibid.*, p. 8.

⁹⁸ *Ibid.*, p. 10.

⁹⁹ *Ibid.*, pp. 8-9.

¹⁰⁰ [S/PV.6772](#), p. 3.

¹⁰¹ *Ibid.*

casualties, while the representative of China reiterated that the reports of both the International Commission of Inquiry and the ICC indicating that NATO's activities in Libya had resulted in civilian casualties and stated that the Council had the right and the obligation to know the truth.¹⁰² The representative of France noted in this respect that the Prosecutor's report underscored that there was neither proof nor elements suggesting that NATO command had intentionally planned or committed crimes against the civilian population. He added further that the Libyan Prime Minister had undertaken to carry out his Government's own inquiry and that NATO would offer its full support.¹⁰³ The representative of the United States expressed deep concern about the patterns of rape documented by the International Commission of Inquiry and affirmed that impunity could not be reconciled with respect for human rights and the rule of law.¹⁰⁴ The representative of the Russian Federation deemed it important to continue evaluating the data received from, among others, the Human Rights Council's International Commission of Inquiry.¹⁰⁵ The representative of Portugal welcomed the synergy between the Office of the Prosecutor of the ICC and the International Commission of Inquiry and made reference to the findings of the latter in its report.¹⁰⁶ The representative of Colombia affirmed that the cooperation with the ICC and the Commission of Inquiry, among other bodies, was fundamental.¹⁰⁷ The representative of Germany also made reference to the conclusions of the Commission of Inquiry and demanded compliance with international human rights standards by "all those exerting factual power in Libya".¹⁰⁸ The representative of Morocco emphasized the cooperation offered by the Libyan authorities to the Commission of Inquiry¹⁰⁹ and the representative of the United Kingdom, while acknowledging the cooperation, urged the Libyan Government to make further progress. In reference to an earlier report of the Commission of Inquiry on Libya (A/HRC/19/68), the representatives of France and Togo urged the Libyan authorities on taking action.¹¹⁰ The representative of Azerbaijan in closing the debate

¹⁰² Ibid., p.10 (United Kingdom) and p. 11 (China).

¹⁰³ Ibid., p. 13.

¹⁰⁴ Ibid., p. 5.

¹⁰⁵ Ibid., p. 6.

¹⁰⁶ Ibid.

¹⁰⁷ Ibid., p. 11.

¹⁰⁸ Ibid., p. 10.

¹⁰⁹ Ibid., p. 8 (Morocco) and p. 10 (United Kingdom).

¹¹⁰ Ibid., p. 12 (France) and p.13 (Togo).

commended the Libyan authorities for their commitment to investigate the incidents identified by the International Commission of Inquiry of the Human Rights Council.¹¹¹

On 7 November 2012, the Council held its 6855th meeting in which it was again briefed by the Prosecutor of the ICC. During the debate that ensued, speakers made various references to the report of the International Commission of Inquiry. The representative of the Russian Federation noted the lack of progress by the ICC in the investigation of the information received from the Commission of Inquiry.¹¹² In this regard, the representative of South Africa urged the Office of the Prosecutor to complete that investigation.¹¹³ The representative of the United States expressed particular concern about the allegations of rape and sexual violence documented by the Commission of Inquiry and looked forward to the further reports by the Prosecutor about its efforts in this regard.¹¹⁴ Echoing the United States, the representatives of Portugal and Germany focused on the information relating to gender crimes and patterns of rape identified by the Commission of Inquiry.¹¹⁵ The representatives of Colombia and Portugal reiterated earlier calls in favour of closer cooperation between the Commission of Inquiry and other bodies, including the Office of the United Nations High Commissioner for Human Rights and the ICC.¹¹⁶ Finally, the representative of Morocco indicated that Libya was endeavoring to focus its investigations on high-level officials accused by the Independent International Commission of Inquiry and had laid the foundations of a general plan to establish transitional justice, national reconciliation and civil peace.¹¹⁷

¹¹¹ Ibid., p. 15.

¹¹² [S/PV.6855](#), p. 6.

¹¹³ Ibid., p. 7.

¹¹⁴ Ibid.

¹¹⁵ Ibid., p. 13 (Portugal) and p. 14 (Germany).

¹¹⁶ Ibid., p. 4 (Colombia) and pp. 12 -13 (Portugal).

¹¹⁷ Ibid., p. 12.

III. Decisions of the Security Council concerning the pacific settlement of disputes

Article 33

- 1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.*
- 2. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means.*

Article 36

- 1. The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or of a situation of like nature, recommend appropriate procedures or methods of adjustment.*
- 2. The Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties.*
- 3. In making recommendations under this Article the Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court.*

Article 37

- 1. Should the parties to a dispute of the nature referred to in Article 33 fail to settle it by the means indicated in that Article, they shall refer it to the Security Council.*
- 2. If the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate.*

Article 38

Without prejudice to the provisions of Articles 33 to 37, the Security Council may, if all the parties to any dispute so request, make recommendations to the parties with a view to a pacific settlement of the dispute.

Note

Article 33 (1) of the Charter of the United Nations provides the framework for parties to settle their disputes by peaceful means. According to Article 33 (2) of the Charter, the Security Council shall call on the parties to settle their disputes by such peaceful means as provided for in Article 33 (1). The Council may recommend “appropriate procedures or methods of adjustment” for the settlement of disputes under Article 36 (1). According to Article 36 (2) and (3), the Council should take into consideration procedures for the settlement of the dispute already adopted by the parties and consider that legal disputes should, as a general rule, be referred by the parties to the International Court of Justice. Article 37 (2) envisages that the Council shall decide whether to “recommend such terms of settlement as it may consider appropriate”, and Article 38 provides that it may “make recommendations to the parties with a view to a pacific settlement of the dispute”.

This section examines the decisions of the Security Council in 2012 and 2013 reflecting the activity of the Council in relation to the peaceful settlement of disputes within the framework of Chapter VI of the Charter. The section is divided in four subsections. Subsection A features relevant decisions of the Council on general and thematic issues referencing the provisions of Chapter VI of the Charter. Subsection B illustrates how the Council welcomed, encouraged or supported efforts in the peaceful settlement of disputes by means of its decisions in relation to country-specific and regional situations. Subsection C provides an overview of the Council’s activities in support of the pacific settlement of disputes involving the Secretary-General. And Subsection D briefly refers to the various ways in which the Council encouraged and supported efforts by regional organizations in the peaceful settlement of disputes, which is covered in more detail in Part VIII of this Supplement.

A. Decisions under general and thematic agenda items

This sub-section provides an overview of the decisions of the Security Council on general and thematic issues relating to the pacific settlement of disputes. The decisions of the Council during the period 2012 to 2013 reveal a multi-faceted approach of the Council in relation to the pacific settlement of disputes.

During the period under review, the Council rarely made explicit reference to Chapter VI or to Articles 33 to 35 and 99 of the Charter. This notwithstanding the Council reiterated its call upon Member States to settle their disputes by peaceful means as set forth in Chapter VI of the Charter of the United Nations and emphasized the key role of the International Court of Justice in this regard.¹¹⁸ The Council also noted that it would explore ways to prevent the outbreak of armed conflict and develop measures to address the root causes of conflict in order to ensure sustainable peace.¹¹⁹

Concretely, the Council emphasized that peacekeeping activities should be conducted in a manner so as to facilitate post-conflict peacebuilding, prevention of relapse of armed conflict and progress towards sustainable peace and development.¹²⁰ It also emphasized the importance of Integrated Strategic Assessment and Planning processes to gauge the challenges of peacebuilding and to ensure coherence between peacemaking, peacekeeping and peacebuilding.¹²¹ The Council also supported the good offices role of multidimensional peacekeeping missions as well as their role in facilitating consultations process among the local population and civil society.¹²²

The Security Council in its decisions during the 2012-2013 period also recognized the importance of the good offices of the Secretary-General and encouraged him to use mediation as often as possible to help resolve conflicts peacefully in relation to the cooperation between the United Nations and regional organizations.¹²³ Specifically, in connection with the item “Children and Armed Conflict”, the Council emphasized that the fight against impunity for war

¹¹⁸ [S/PRST/2012/1](#), third paragraph, in connection with the item “The promotion and strengthening of the rule of law”.

¹¹⁹ [S/PRST/2013/2](#), twelfth paragraph, in connection with the item “Protection of civilians in armed conflict”.

¹²⁰ Resolution [2086 \(2013\)](#), para. 2, in connection with the item “United Nations peacekeeping operations”.

¹²¹ *Ibid.*, para. 4.

¹²² *Ibid.*, para 8(e).

¹²³ [S/PRST/2013/12](#), twelfth paragraph, in connection with the item “Cooperation between the United Nations and regional and subregional organizations in maintaining international peace and security”.

crimes, crimes against humanity and genocide was an important element of conflict prevention¹²⁴ and underlined the importance of integrating child protection provisions into all peace negotiations and peace agreements.¹²⁵ The Council also reiterated the importance of addressing crimes committed against women in armed conflict from the outset of peace processes and mediation efforts,¹²⁶ and reiterated the important role of women in the prevention and resolution of conflict and in peacebuilding.¹²⁷

B. Decisions under country specific agenda items

This subsection provides an overview of the Security Council's practice aimed at the pacific settlement of disputes in application of Chapter VI of the Charter in the context of country or region specific situations. It should be recalled that Article 33 (2) of the Charter provides that the Council shall call upon the parties to settle disputes by the means established in Article 33 (1), when deemed necessary. Article 36 (1) of the Charter provides in addition, that the Council may "recommend appropriate procedures or methods of adjustment". Article 37 (2) establishes further that if the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36, or to "recommend such terms of settlement as it may consider appropriate". And Article 38 provides that without prejudice to Articles 33 to 37, the Security Council may make recommendations to the parties with a view to a pacific settlement of the dispute, if all parties so request.

During the period under review, the Council adapted the tools available for the pacific settlement of disputes in Chapter VI of the Charter to the context of specific situations. In dealing with complex situations where the Council determined the existence of a threat to international peace and security, the Council utilized the tools available under Chapter VII of the

¹²⁴ [S/PRST/2013/4](#), fourteenth paragraph.

¹²⁵ [S/PRST/2013/8](#), sixteenth paragraph, in connection with the item "Children and armed conflict".

¹²⁶ [S/PRST/2012/29](#), fifteenth paragraph, in connection with the item "Post-conflict peacebuilding". Resolution [2106 \(2013\)](#), para. 12, additionally emphasized the importance of addressing sexual violence in armed conflict, in mediation efforts, ceasefires and peace agreements.

¹²⁷ [S/PRST/2012/3](#), twelfth paragraph, in connection with the item "Women and peace and security" and resolution [2086 \(2013\)](#), para. 8(j), in connection with the item "United Nations peacekeeping operations". Resolution [2122 \(2013\)](#), thirteenth preambular paragraph, noted further the importance of sustained consultation and dialogue between women and national and international decision makers.

Charter in parallel with those available under Chapter VI with a view to restoring peace and to recommending procedures or methods for the pacific settlement of disputes. This subsection features the recommendations of the Council with regard to the pacific settlement of disputes contained in decisions of the Council regardless of whether these decisions were adopted under Chapter VI or Chapter VII of the Charter. This approach differs from earlier volumes of the *Repertoire*.

During the period under review, the Council formulated its recommendations based on the particular circumstances prevailing on the ground. Whether or not a threat to international peace and security was determined, the nature of the disputes dealt with by the Council in the period 2012 and 2013 was, in the majority of the cases, of a national character, confronting different ethnic, religious and/or political groups. During the period under review, the Council encouraged, in almost all cases, stakeholders to engage in inclusive political dialogue as a means of creating an environment conducive to the holding of elections,¹²⁸ negotiations,¹²⁹ peace and reconciliations processes,¹³⁰ discussions¹³¹ or the strengthening of national unity and dialogue over key aspects such as internal boundaries.¹³² The Council also recalled that early warning and response systems, preventive diplomacy, preventive deployment, mediation, practical disarmament measures, peacemaking, peacekeeping and peacebuilding strategies were interdependent and complementary components of a comprehensive conflict prevention strategy.

In connection with the situation in Burundi, the Council called upon the Government to foster inclusive elections in 2015 by continuing to improve dialogue between all national actors.¹³³

With regard to the situation in the Central African Republic, the Council called for the expeditious and full implementation of the ceasefire signed between the Government and the

¹²⁸ Resolution [2065 \(2012\)](#), fifth preambular paragraph (in connection with the item “The situation in Sierra Leone”); resolution [2088 \(2013\)](#), para. 11 (in connection with the item “The situation in the Central African Republic”); resolution [2090 \(2013\)](#), para. 4 (in connection with the item “The situation in Burundi”); and resolution [2103 \(2013\)](#), sixth preambular paragraph (in connection with the item “The situation in Guinea-Bissau”).

¹²⁹ Resolution [2044 \(2012\)](#), eighteenth preambular paragraph and para. 5 (in connection with the item “The situation concerning Western Sahara”).

¹³⁰ Resolution [2041 \(2012\)](#), para. 13 (in connection with the item “The situation in Afghanistan”) and resolution [2067 \(2012\)](#), para. 2 (in connection with the item “The situation in Somalia”).

¹³¹ Resolution [2058 \(2012\)](#), para. 1 (in connection with the item “The situation in Cyprus”).

¹³² Resolution [2061 \(2012\)](#), sixth preambular paragraph (in connection with the item “The situation concerning Iraq”).

¹³³ Resolution [2090 \(2013\)](#), para. 4.

“Seleka” coalition.¹³⁴ The Council called also for the full implementation of the political agreement on the resolution of the crisis signed between the presidential majority, the democratic opposition, the armed groups, the “Seleka” Coalition, the President of the follow-up Committee and the Economic Community of the Central African States.¹³⁵ The Council further expressed its support for and demanded the full implementation of the Libreville Agreements of 11 January 2013, the N’Djamena Declaration of 18 April 2013 and the N’Djamena Summit Roadmap, which provided the basis for a peaceful political resolution to the crisis leading to free, fair and transparent elections.¹³⁶ The situation in the Central African Republic deteriorated considerably during the period under review leading the Council to determine the existence of a threat to international peace and security on 5 December 2013 in resolution [2127 \(2013\)](#).¹³⁷ After the existence of a threat was determined, the Council continued to support the Libreville Agreements of 11 January 2013, the N’Djamena Declaration of 18 April 2013, and the later agreements, of 3 May 2013 and of 8 November 2013 entered into in Brazzaville and Bangui, respectively.¹³⁸ In addition, and in parallel to the deployment of the African-led International Support Mission in the Central African Republic (MISCA), the Council expressed deep concern at the escalation of interreligious and intercommunal violence as well as violence targeting members of ethnic and religious groups and their leaders, and urged all parties and stakeholders in the country to work together in order to strengthen intercommunal and interfaith dialogues, to prevent further deterioration of the situation on the ground.¹³⁹

In relation to the situation in Côte d’Ivoire, while acting under Chapter VII, the Council emphasized the urgent need for concrete measures to promote justice and reconciliation at all levels and on all sides, including through the active involvement of civil society groups, with the aim of addressing the underlying causes of the Côte d’Ivoire crises. The Council also urged the Ivorian Government to take concrete steps to prevent and respond to inter-communal violence by seeking a broad national consensus on how to address identity and land tenure issues.¹⁴⁰ In

¹³⁴ Resolution [2088 \(2013\)](#), para. 5.

¹³⁵ Ibid.

¹³⁶ Resolution [2121 \(2013\)](#), paras. 1 and 3.

¹³⁷ Resolution [2127 \(2013\)](#), thirty-first preambular paragraph.

¹³⁸ Ibid., para 1.

¹³⁹ Ibid., para 19.

¹⁴⁰ Resolution [2062 \(2012\)](#), para. 10.

addition, the Council encouraged the Dialogue, Truth and Reconciliation Commission to complete its work and produce concrete results.¹⁴¹

During the period under review, of the four resolutions adopted under Chapter VII in relation to the situation concerning the Democratic Republic of the Congo, two included recommendations relating to the pacific settlement of disputes.¹⁴² In June 2012, the Council encouraged the Government to promote non-military solutions as an integral part of the overall solution for reducing the threat posed by Congolese and foreign armed groups.¹⁴³ And in March 2013, the Council welcomed the signing of the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the region (“the PSC Framework”) in Addis Ababa on 24 February 2013 and demanded that the signatory States of the PSC Framework fully implement their commitments in good faith.¹⁴⁴

In Guinea Bissau, the Council stressed that all stakeholders should work to ensure stability through clear commitment and genuine inclusive political dialogue aimed at creating conditions conducive to the restoration of and respect for constitutional order following credible elections ultimately facilitating the implementation of key reforms and the strengthening of state institutions.¹⁴⁵

In Liberia, despite significant progress, the Council determined that the situation remained fragile and that it continued to constitute a threat to international peace and security in the region. At the same time, the Council called on all Liberian leaders to promote meaningful reconciliation and inclusive dialogue to consolidate peace and advance Liberia’s democratic development.¹⁴⁶

In relation to Mali, the Council reacted promptly to the crisis in 2012 issuing two presidential statements¹⁴⁷, and in July 2012 it adopted resolution [2056 \(2012\)](#), determining that the situation constituted a threat to international peace and security and thus acted under Chapter VII. In that resolution, the Council expressed its support to all efforts made by the transitional

¹⁴¹ Resolution [2101 \(2013\)](#), seventh preambular paragraph.

¹⁴² The four resolutions are, respectively, resolution [2053 \(2012\)](#), [2076 \(2012\)](#), [2078 \(2012\)](#) and resolution [2098 \(2013\)](#).

¹⁴³ Resolution [2053 \(2012\)](#), para. 3.

¹⁴⁴ Resolution [2098 \(2013\)](#), paras. 1 and 2.

¹⁴⁵ Resolution [2103 \(2013\)](#), sixth preambular paragraph.

¹⁴⁶ Resolution [2079 \(2012\)](#), tenth preambular paragraph and resolution [2128 \(2013\)](#), twelfth preambular paragraph.

¹⁴⁷ [S/PRST/2012/7](#) and [S/PRST/2012/9](#).

authorities of Mali, with the support of the Economic Community of West African States (ECOWAS), the African Union, neighbouring and other countries in the region, and the United Nations, aimed at seeking a peaceful solution to the situation in the north of Mali.¹⁴⁸ It requested the Secretary-General to provide support to ongoing mediation efforts, including through the good offices of his Special Representative for West Africa.¹⁴⁹ In resolution [2071 \(2012\)](#), the Council acknowledged the steps taken by Mali, including by the signing on 6 April 2012 of a Framework Agreement under the auspices of ECOWAS, towards developing a road map for the restoration of constitutional order, an inclusive national dialogue and the organization of free, transparent, and fair presidential elections.¹⁵⁰ The Council also emphasized the importance for the transitional authorities of Mali to move swiftly in a process of inclusive dialogue and active engagement with Malian political groups.¹⁵¹ The Council in this regard commended the initial measures taken to restore constitutional order and national unity in Mali.¹⁵²

In Sierra Leone, the Council urged the Government to continue efforts towards holding regular, inclusive and genuine dialogue with all relevant national and international stakeholders on the country's peacebuilding and development goals and urged the Government to ensure that the Agenda for Prosperity continued to build on progress achieved in strengthening the political, security, the justice and human rights institutions, including through, inter alia, the implementation of the recommendations of the Truth and Reconciliation Commission.¹⁵³

In connection with Somalia, while acting under Chapter VII of the Charter, the Council reiterated its full support for the Djibouti Peace Process and the Transitional Federal Charter which provided the framework for reaching a lasting political solution in Somalia and stressed the need for reconciliation, dialogue and broad-based, inclusive and representative Somali institutions.¹⁵⁴ The Council also emphasized the critical role of the new Somali authorities in achieving reconciliation, lasting peace and stability in Somalia and stressed their importance also in developing a programme to define post transition priorities.¹⁵⁵ The Council also encouraged

¹⁴⁸ Resolution [2056 \(2012\)](#), para. 11.

¹⁴⁹ *Ibid.*, para. 12.

¹⁵⁰ Resolution [2071 \(2012\)](#), fifteenth preambular paragraph.

¹⁵¹ Resolution [2100 \(2013\)](#), sixth preambular paragraph.

¹⁵² *Ibid.*, para. 1

¹⁵³ Resolution [2065 \(2012\)](#), para. 8.

¹⁵⁴ Resolution [2036 \(2012\)](#), third preambular paragraph.

¹⁵⁵ Resolution [2067 \(2012\)](#), paras. 2 and 4.

the Government to initiate processes of national reconciliation in order to accelerate efforts to establish sustainable, legitimate and representative local governance structures across the country.¹⁵⁶

In relation with the situation specifically in Darfur within the Sudan, the Council welcomed the initiative of the Joint Chief Mediator to revitalize the peace process, including through the renewed engagement of the non-signatory movements and encouraged him to be mindful of other relevant peace processes.¹⁵⁷

In relation to Western Sahara, the Council recognized that the consolidation of the status quo was not acceptable and called upon the parties to continue to show political will and work in an atmosphere propitious for dialogue, thus ensuring implementation of the relevant resolutions and the success of the negotiations.¹⁵⁸

In relation to Afghanistan, the Council welcomed the continuing efforts of the Afghan Government to advance the peace and reconciliation process, including by the High Peace Council and the implementation of the Afghan Peace and Reintegration Programme, to promote an inclusive, Afghan-led dialogue on reconciliation and political participation as laid forth in the Kabul Conference Communiqué on dialogue for all those who “renounce violence, have no links to international terrorist organizations,” including Al-Qaida, “respect the constitution”, including its human rights provisions, “and are willing to join in building a peaceful Afghanistan”.¹⁵⁹ The Council also encouraged the Government to make use of the good offices of the Mission to support this process as appropriate, in full respect of the implementation of measures and procedures introduced by the Security Council in its resolutions [1267 \(1999\)](#) and [1988 \(2011\)](#) as well as other relevant resolutions of the Council.¹⁶⁰ The Council, whilst acting under Chapter VII of the Charter, further reiterated its call on all Afghan parties and groups to engage constructively in peaceful political dialogue as within the framework of the Afghan Constitution

¹⁵⁶ Resolution [2124 \(2013\)](#), para. 25.

¹⁵⁷ Resolution [2113 \(2013\)](#), paras. 9 and 24.

¹⁵⁸ Resolutions [2044 \(2012\)](#), eighteenth preambular paragraph and para. 5; and [2099 \(2013\)](#), eighteenth preambular paragraph and para. 5.

¹⁵⁹ Resolution [2041 \(2012\)](#), para. 13.

¹⁶⁰ *Ibid.*

and to work together with international donors for the socioeconomic development of the country and to avoid resorting to violence.¹⁶¹

In dealing with the situation in Timor-Leste, the Council urged all parties, in particular political leaders, to continue to work together and engage in political dialogue and to consolidate peace. The Council also reaffirmed its full support for the continued efforts of the Special Representative of the Secretary-General for Timor-Leste in promoting a culture of democratic governance, through inclusive and collaborative processes.¹⁶²

In relation to Iraq, the Council welcomed the improvements in the security situation but stressed that challenges to security remained. The Council stressed also that improvements needed to be sustained through meaningful political dialogue and national unity.¹⁶³

The consideration of and response to the situation in the Syrian Arab Republic divided the Council during the period under review, as exemplified by the non-adoption of two draft resolutions.¹⁶⁴ This notwithstanding, the Council was able to adopt a series of decisions in application of Chapter VI of the Charter. In its resolutions, the Council underscored the central importance of a peaceful political settlement to the Syrian crisis and reiterated its call for the urgent, comprehensive, and immediate implementation of all aspects of the six-point proposal of the Joint Special Envoy of the United Nations and the League of Arab States to Syria.¹⁶⁵ The Council also stressed that the only solution to the crisis was through an inclusive and Syrian-led political process based on the Geneva Communiqué of 30 June 2012,¹⁶⁶ and emphasized the need to convene an international conference on Syria as soon as possible.¹⁶⁷

During the period under review, the Council determined that the situation between the Sudan and South Sudan constituted a threat to international peace and security.¹⁶⁸ The Council adopted a series of decisions involving a multiplicity of actions. As far as recommendations relating to the pacific settlement of disputes are concerned, the Council in paragraph 1 of resolution [2046 \(2012\)](#) decided, among others, that Sudan and South Sudan should take a variety

¹⁶¹ Resolutions [2069 \(2012\)](#), twenty eighth preambular paragraph ; and [2120 \(2013\)](#), twenty ninth preambular paragraph.

¹⁶² Resolution [2037 \(2012\)](#), para. 2.

¹⁶³ Resolutions [2061 \(2012\)](#), fifth preambular paragraph; and [2110 \(2013\)](#), fifth preambular paragraph.

¹⁶⁴ [S/2012/77](#) and [S/2012/538](#).

¹⁶⁵ [S/PRST/2012/10](#), seventh paragraph.

¹⁶⁶ Resolution [2118 \(2013\)](#), Annex II.

¹⁶⁷ Resolution [2118 \(2013\)](#), twelfth preambular paragraph and paras. 16 and 17.

¹⁶⁸ See [S/PRST/2012/5, first paragraph](#).

of actions with immediate effect, including, the cessation of hostilities, the withdrawal of armed forces to their respective side of the border, the activation of border security mechanisms and the cessation of hostile propaganda in the media as well as attacks against the property, religious and cultural symbols belonging to the nationals of the other State.¹⁶⁹ Some of these actions were repeated by the Council in subsequent resolutions. Also in resolution [2046 \(2012\)](#), the Council demanded that Sudan and South Sudan unconditionally resume negotiations to reach agreement on critical issues relating to the dispute between both countries.¹⁷⁰ With respect to Abyei, the Council expressed its determination that its future status be resolved by negotiations and not by the unilateral actions of either party.¹⁷¹ And in resolution [2132 \(2013\)](#), the Council again called for the cessation of hostilities and the “immediate opening of a dialogue”.¹⁷²

In relation to the situation in Cyprus, the Council acknowledged the progress made so far in the fully fledged negotiations but noted that it had not been sufficient and had not resulted in a comprehensive and durable settlement. The Council, therefore, urged the sides to continue discussions. Recalling resolution [2026 \(2011\)](#), the Council called upon the two leaders to take a series of concrete measures, namely (a) to put their efforts behind further work on reaching convergences on the core issues; (b) to continue to work with the technical committees with the objective of improving the daily lives of the Cypriots; (c) to improve the public atmosphere in which the negotiations were proceeding, including by focusing public messages on convergences and the way ahead, and delivering more constructive and harmonized messages; and (d) to increase the participation of civil society in the process, as appropriate.¹⁷³

C. Decisions involving the Secretary-General

Article 99 of the Charter provides that the Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security. Whilst the Charter does not describe or define the role of the Secretary-General in relation to matters of peace and security, the efforts of the Council regarding

¹⁶⁹ Resolution [2046 \(2012\)](#), para. 1.

¹⁷⁰ *Ibid.*, para. 2.

¹⁷¹ Resolution [2126 \(2013\)](#), seventeenth preambular paragraph.

¹⁷² Resolution [2132 \(2013\)](#), para. 1.

¹⁷³ Resolutions [2058 \(2012\)](#), paras. 1 and 3; [2089 \(2013\)](#) paras. 1 and 3; and [2114 \(2013\)](#) paras. 1 and 3.

conflict prevention and the peaceful settlement of disputes increasingly required the involvement of the Secretary-General. The Secretary-General has thus been heavily involved in the facilitation of peace efforts in coordination with the Council or at its request, as demonstrated by the decisions of the Council in this regard.

During the period 2012 and 2013, the Council welcomed, acknowledged and recognized the work of the Secretary-General and Special Representatives alike in assisting parties in conflict before, during and after peaceful negotiations.¹⁷⁴ The Council also requested the Secretary-General, through his Special Representatives, to enhance the mediation capacities of parties in conflict and to facilitate and strengthen dialogue.¹⁷⁵ The Council, moreover, requested the Secretary-General and his Special Representatives to provide support to mediation efforts by other organizations, and requested further the Secretary-General to use his good offices to facilitate dialogue among stakeholders.¹⁷⁶ The Council also requested the Secretary-General to explore and report on options to facilitate enhanced dialogue between relevant parties and to provide support in critical areas such as national dialogue and electoral processes.¹⁷⁷

During the period under review, the Secretary-General relied heavily on Special Envoys, Advisers, and Representatives to assist him in his efforts.¹⁷⁸ During the same period, the Secretary-General's involvement in the facilitation of peace efforts was undertaken in cooperation with regional organizations, such as the African Union and the Intergovernmental Authority on Development (IGAD) in the Sudan and South Sudan, the Economic Community of Central African States (ECCAS) in the Central African Republic and Côte d'Ivoire, the Economic Community of West African States (ECOWAS) in Mali and Guinea-Bissau, the

¹⁷⁴ Resolutions [2044 \(2012\)](#), para. 7, in connection with the the situation concerning Western Sahara; [2058 \(2012\)](#), nineteenth preambular paragraph, in connection with the situation in Cyprus; [2088 \(2013\)](#), eighth preambular paragraph (in connection with the situation in the Central African Republic); and [2099 \(2013\)](#), para. 7, in connection with the situation concerning Western Sahara.

¹⁷⁵ Resolutions [2085 \(2012\)](#), para. 3, in connection with the situation in Mali; and resolution [2127 \(2013\)](#), para. 7 (in connection with the situation in the Central African Republic).

¹⁷⁶ Resolutions [2053 \(2012\)](#), para. 16, in connection with the situation concerning the Democratic Republic of the Congo; [2062 \(2012\)](#), para. 11 in connection with the situation in Côte d'Ivoire); [2098 \(2013\)](#), para. 14, in connection with the situation concerning the Democratic Republic of the Congo; and [2112 \(2013\)](#), para. 19, in connection with the situation in Côte d'Ivoire.

¹⁷⁷ Resolutions [2051 \(2012\)](#), para. 16, in connection with the situation in the Middle East; [2076 \(2012\)](#), para. 16, in connection with the situation concerning the Democratic Republic of the Congo, and [S/PRST/2012/22](#), eighth paragraph, in connection with the situation in Côte d'Ivoire.

¹⁷⁸ For example, the Special Envoy of the Secretary-General for the Sahel, the Joint Special Representative of the United Nations and the League of Arab States for Syria, and the Special Adviser of the Secretary-General on Yemen.

International Conference on the Great Lakes Region (ICGLR) in the Democratic Republic of Congo and the League of Arab States in Syria, and independently as in Western Sahara and Cyprus. Oftentimes the work of the Secretary-General in pursuing the pacific settlement of disputes was related to the enhancement of political or national dialogue as in Côte d'Ivoire, the Democratic Republic of the Congo, Guinea-Bissau, and Libya. In Mali, Western Sahara, Cyprus, Yemen and Syria the role of the Secretary-General consisted of a deeper involvement in the conflict and an active participation through mediation and good offices.

Given the gravity of the conflict in Syria, on 16 February 2012, the General Assembly adopted resolution [66/253](#). In that resolution, the General Assembly requested the Secretary-General and all relevant United Nations bodies to provide support to the efforts of the League of Arab States, both through the appointment of a special envoy to undertake good offices aimed at promoting a peaceful solution to the Syrian crisis and through technical and material assistance, in consultation with the League of Arab States.¹⁷⁹ In a presidential statement dated 21 March 2012, the Council welcomed the appointment of the Joint Special Envoy and expressed its full support for his efforts in ending the violence and for his six-point proposal.¹⁸⁰ In an earlier letter of 16 March 2012, the Joint Special Envoy had proposed a six-point plan aimed at bringing an immediate end to all violence and human rights violations, securing humanitarian access and facilitating a Syrian-led political transition leading to a democratic, plural political system, including through commencing a comprehensive political dialogue between the Syrian government and the Syrian opposition. On 5 April 2012, the Council underscored, in a presidential statement, the importance of an effective and credible United Nations supervision mechanism in Syria to monitor a cessation of armed violence in all its forms by all parties.¹⁸¹ Further, in resolution [2042 \(2012\)](#) and [2043 \(2012\)](#),¹⁸² the Security Council reaffirmed its full support to the Special Envoy's proposal aimed at bringing an immediate end to all violence.¹⁸³ This notwithstanding, the Joint Special Envoy resigned in August 2012, and a new envoy was appointed shortly thereafter.

¹⁷⁹ [A/RES/66/253](#), para. 11.

¹⁸⁰ [S/PRST/2012/6](#), fourth, fifth, sixth and seventh paragraphs.

¹⁸¹ [S/PRST/2012/10](#), sixth paragraph.

¹⁸² By virtue of resolution [2043 \(2012\)](#), the Council established the United Nations Supervisions Mission in Syria (UNSMIS) under the command of a Chief Military Observer. For more information on its mandate and activities, see Part X of the present Supplement.

¹⁸³ Resolution [2042 \(2012\)](#), para. 1.

During the remaining period under review, whilst the Council met on multiple occasions and was actively seized of the matter, no further decision was issued by the Council.

In Yemen, on the other hand, the Council unanimously and consistently endorsed the good offices efforts of the Secretary-General through his Special Adviser. On 12 June 2012, the Council adopted resolution [2051 \(2012\)](#), emphasizing the importance of conducting a fully-inclusive, participatory, transparent and meaningful National Dialogue Conference, demanding the cessation of all actions aimed at undermining the Government of National Unity and the political transition, and expressing its readiness to consider further measures, including under Article 41 of the Charter, if such actions continued. In the same resolution, the Council requested the Secretary-General to continue his good offices, including through the efforts of his Special Adviser.¹⁸⁴ On 27 January 2013, the Council dispatched a mission to Yemen to reaffirm its support to the ongoing political transition process in the country as well as to the international community involved in implementing the Gulf Cooperation Council initiative, including the Special Adviser and his good offices in Yemen.¹⁸⁵ One month later, on 15 February 2013, the Security Council issued a presidential statement affirming that it would remain closely engaged on the situation in Yemen and would continue to closely follow the next steps towards a peaceful political transition.¹⁸⁶

Table 5 below shows the types of Secretary-General’s activities supported by the Council in relation to the peaceful settlement of disputes and the prevention of conflict. It includes specific provisions of relevant decisions and is organized alphabetically by region and in chronological order.

Table 5

Decisions involving the Secretary-General in the Council’s efforts at the pacific settlement of disputes in 2012-2013

<i>Decision and date</i>	<i>Provision</i>	<i>Type of activity supported by the Council</i>
Africa		
The situation in the Central African Republic		

¹⁸⁴ Resolution [2051 \(2012\)](#), paras. 5, 6, and 16.

¹⁸⁵ [S/2013/61](#).

¹⁸⁶ [S/PRST/2013/3](#), eighth paragraph.

<i>Decision and date</i>	<i>Provision</i>	<i>Type of activity supported by the Council</i>
Resolution 2088 (2013) 24 January 2013	eighth preambular paragraph	Good offices
Resolution 2121 (2013) 10 October 2013	para. 4	Mediation support
Resolution 2127 (2013) 5 December 2013	para. 7	Mediation support
The situation in Côte d'Ivoire		
Resolution 2062 (2012) 26 July 2012	para. 11	Good offices
Resolution 2112 (2013) 30 July 2013	para. 19	Good offices
The situation concerning the Democratic Republic of the Congo		
Resolution 2053 (2012) 27 June 2012	para. 16	Electoral support
	para. 17	Good offices
S/PRST/2012/22 19 October 2012	eighth paragraph	Good offices
Resolution 2076 (2012) 20 November 2012	para. 16	Dialogue assessment
Resolution 2098 (2013) 28 March 2013	para. 5	Peace implementation assessment
	para. 14	Good offices
The situation in Guinea-Bissau		
Resolution 2092 (2013) 22 February 2013	para. 3	Dialogue and electoral support
Resolution 2103 (2013) 22 May 2013	para. 8	Dialogue support
The situation in the Great Lakes region		
S/PRST/2013/11 25 July 2013	seventh paragraph	Peace implementation assessment
The situation in Libya		
S/PRST/2013/21 16 December 2013	third paragraph	Dialogue support
The situation in Mali		
Resolution 2056 (2012) 5 July 2012	para. 12	Mediation support
Resolution 2071 (2012) 12 October 2012	para. 4	Dialogue support
	para. 10	Mediation support
Resolution 2085 (2012)	para. 3	Mediation support

<i>Decision and date</i>	<i>Provision</i>	<i>Type of activity supported by the Council</i>
20 December 2012		
Resolution 2100 (2013) 25 April 2013	para. 2	Transition and dialogue support
Reports of the Secretary-General on the Sudan and South Sudan		
Resolution 2063 (2012) 31 July 2012	para. 20	Mediation
Resolution 2113 (2013) 30 July 2013	para. 9 para. 24	Mediation Mediation
The situation concerning Western Sahara		
Resolution 2044 (2012) 24 April 2012	para. 6 para. 9	Mediation Mediation
Resolution 2099 (2013) 25 April 2013	para. 6 para. 9	Mediation Mediation
Europe		
The situation in Cyprus		
Resolution 2058 (2012) 19 July 2012	nineteenth preambular paragraph	Mediation support
Resolution 2089 (2013) 24 January 2013	third preambular paragraph nineteenth preambular paragraph	Mediation support Mediation support
<i>Resolution</i> 2114 (2013)	third preambular paragraph nineteenth preambular paragraph	Mediation support Mediation support
Middle East		
The situation in the Middle East (Syria)		
S/PRST/2012/6 21 March 2012	fifth paragraph	Political dialogue
S/PRST/2012/10 5 April 2012	sixth paragraph seventh paragraph	Ceasefire supervision Peace implementation mechanism
Resolution 2042 (2012) 14 April 2012	para. 1	Peace implementation mechanism
Resolution 2043 (2012) 21 April 2012	para. 1	Peace implementation mechanism
The situation in the Middle East (Yemen)		
Resolution 2051 (2012) 12 June 2012	para. 16	Good offices
S/PRST/2013/3 15 February 2013	eighth paragraph	Good offices

D. Decisions involving regional arrangements or agencies

During the period under review, consistent with Article 52 of the Charter, the Security Council welcomed and expressed support for the efforts for the pacific settlement of disputes through regional organizations and other arrangements, encouraged them to continue those efforts, and called upon parties in conflict to engage and cooperate in such processes led by regional organizations and entities. Decisions of the Council regarding joint or parallel efforts undertaken by the Council and regional arrangements or agencies in the pacific settlement of disputes during the period under review are covered in detail in Part VIII of this Supplement.

IV. Discussion on the interpretation or application of the provisions of Chapter VI of the Charter

Note

This section of the *Repertoire* features the main discussions in the Security Council with regard to the interpretation of specific provisions of Chapter VI of the Charter concerning the role of the Council and the Secretary-General in the peaceful settlement of disputes. It excludes those that concern regional organizations, which are covered in Part VIII of the present Supplement.

During the period under review, explicit references were made to Articles 33,¹⁸⁷ 36,¹⁸⁸ and 99¹⁸⁹ as well as to Chapter VI¹⁹⁰ of the Charter during deliberations, most of which did not give rise to constitutional discussions.

The section below is divided into four subsections: A. Relevance of the provisions of Chapter VI in comparison to the provisions of Chapter VII; B. Referral of legal disputes in light

¹⁸⁷ In connection with protection of civilians in armed conflict, [S/PV.7019](#), p. 58 (Netherlands); and in connection with the promotion and strengthening of the rule of law in the maintenance of international peace and security, [S/PV.6705](#), p.17 (Pakistan); p. 20 (South Africa); and [S/PV.6705 \(Resumption 1\)](#), p.10 (Mauritius).

¹⁸⁸ In connection with the promotion and strengthening of the rule of law in the maintenance of international peace and security, [S/PV.6705](#), p.4 (Germany); p.17 (Pakistan); and [S/PV.6705 \(Resumption 1\)](#), p.18 (Argentina).

¹⁸⁹ In connection with children and armed conflict, [S/PV.6838](#), p.25 (Pakistan); p. 26 (India) and [S/PV.6980](#), p.27 (India); in connection with implementation of the note by the President of the Security Council (S/2010/507), [S/PV.6870](#), p.26 (Luxembourg); [S/PV.7052](#), p. 6 (United Kingdom); p.13 (France) and [S/PV.7052 \(Resumption 1\)](#), p. 8 (New Zealand).

¹⁹⁰ In connection with cooperation between the United Nations and regional and subregional organizations in maintaining international peace and security, [S/PV.6702](#), p. 11 (Colombia); [S/PV.6702 \(Resumption 1\)](#), pp. 2-3 (Pakistan); and [S/PV.7015 \(Resumption 1\)](#), p.23 (New Zealand); in connection with implementation of the note by the President of the Security Council (S/2010/507), [S/PV.6870](#), p.11 (Pakistan); p.21 (India); pp.23-24 (New Zealand); [S/PV.7052](#), p.15 (Pakistan); p.23 (India); [S/PV.7052 \(Resumption 1\)](#), p.8 (New Zealand) and p.10 (Turkey); in connection with peace and security in Africa, [S/PV.6946](#), pp.19-20 (Pakistan); in connection with protection of civilians in armed conflict, [S/PV.6790](#), p.25 (India); in connection with the promotion and strengthening of the rule of law in the maintenance of international peace and security, [S/PV.6849](#), p.11 (India); in connection with the situation between Iraq and Kuwait, [S/PV.6990](#), p. 3 (Iraq); in connection with the situation concerning Iraq, [S/PV.7068](#), p.5 (Special Representative of the Secretary-General and Head of the United Nations Assistance Mission for Iraq); in connection with the situation in the Great Lakes region, [S/PV.7011 \(Resumption 1\)](#), p.8 (Tanzania); in connection with the situation in the Middle East, [S/PV.6710](#), p.23 (Pakistan); p.26 (Azerbaijan); p.27 (Togo); and [S/PV.6711](#), p. 7 (United Kingdom); in connection with the situation in the Middle East, including the Palestinian question, [S/PV.6706](#), p.23 (Guatemala); in connection with United Nations peacekeeping operations, [S/PV.6903](#), p.11 (Togo); p.25 (New Zealand); p.52 (Côte d'Ivoire); and p.60 (Namibia).

of Article 36 of the Charter, C. Reference to peaceful means of settlement in light of Article 33 of the Charter, and D. Utilization of Article 99 by the Secretary-General for the pacific settlement of disputes, featuring cases in which relevant constitutional discussions took place during the period under review.

A. Relevance of the provisions of Chapter VI in comparison to the provisions of Chapter VII

During the period under review, discussions in the Security Council touched upon the distinction between Chapter VI and Chapter VII of the Charter. In the cases discussed below, speakers identified the nature of Council actions considered within each Chapter, the timing of such actions, the conditions on the ground susceptible of being addressed with Council actions under one or the other Chapter of the Charter and the cost-benefit analysis of adopting such actions by the Council.

Case 5

The situation in the Middle East

On 31 January 2012, the Council held its 6710th meeting, further to the letter dated 24 January 2012 from the Secretary-General to the President of the Security Council transmitting a letter from the League of Arab States regarding the situation in the Syrian Arab Republic.¹⁹¹ Against the backdrop of the crisis, Council members discussed the opportunity of adopting a resolution tabled by Morocco addressing the violence prevailing in the country. The Secretary-General of the League of Arab States stated that he looked forward to supporting a resolution that called on all parties to immediately cease all acts of violence in order to protect the Syrian people and to engage in a serious national dialogue under the aegis of the League of Arab States.¹⁹² The representative of France clarified that nothing in the draft resolution, proposed by Morocco, could be construed as an authorization of the use of force. “The draft does not fall

¹⁹¹ [S/2012/71](#).

¹⁹² [S/PV.6710](#), p. 9.

under Chapter VII. We are not preparing any military operation”, he added.¹⁹³ Furthermore, he noted that the goal would be to find a peaceful way out of the crisis that would allow the Syrian people to freely express their aspirations.¹⁹⁴ The representative of the United Kingdom argued that the draft resolution did not propose imposing change on Syria from outside, it called for the Syrian people to be allowed to make their choices for themselves. He added that the plan of the League of Arab States (that was endorsed in the draft resolution) did not include “any outside intervention” and did not contain “coercive measures” but would put the leaders of the Syrian Arab Republic on notice that measures will be considered by the Council if there was not an immediate end to the violence.¹⁹⁵ The representative of Pakistan cautioned that the discussion should remain in full cognizance of and respect of the independence, unity, sovereignty and territorial integrity of the Syrian Arab Republic and should remain within the framework of Chapter VI of the Charter and the principles of the pacific settlement of disputes.¹⁹⁶ The representative of Azerbaijan noted that the international community should not only demand from the Syrian Government but also focus on persuading the opposition to reciprocate. Only measures adequate to the situation that “conform with Chapter VI of the Charter and pay due regard to the role of League of Arab States” could be considered.¹⁹⁷ The representative of Togo expressed concerns regarding the implementation of the far-reaching road map of the League of Arab States elaborated in the framework of Chapter VI of the Charter, given the reluctance of the Government to step down or to take part in the transition process as recommended by the road map.¹⁹⁸ The Prime Minister and Minister of Foreign Affairs of Qatar, also in his capacity as Chairman of the Arab Ministerial Committee on Syria, clarified that his mission was not to request military intervention from the Security Council or to take a decision in favour of military intervention. He emphasized that it was a matter for the Syrian people to decide who should govern them.¹⁹⁹

¹⁹³ Ibid., p. 16.

¹⁹⁴ Ibid.

¹⁹⁵ Ibid.

¹⁹⁶ Ibid., p. 23.

¹⁹⁷ Ibid., p. 26.

¹⁹⁸ Ibid., p.27.

¹⁹⁹ Ibid., p. 30.

Four days later, on 4 February 2014, the Security Council held its 6711th meeting to consider a draft resolution submitted by 19 Member States, including Morocco.²⁰⁰ In spite of the favourable vote of 13 Council members, the resolution was not adopted owing to the negative vote of two permanent members of the Council.²⁰¹ Most Council members regretted the result of the vote. The representative of France, who was echoed by the representatives of the United Kingdom and the United States, explained that the draft resolution was aimed at answering the call from Arab States and a large part of the international community to support the initiative of the League of Arab States towards finding a political, Syrian-led solution to the crisis.²⁰² He further noted that the resolution did not foresee an arms embargo or a sanctions regime nor did it mandate a commission of inquiry into human rights violations.²⁰³ The representative of the United Kingdom clarified that, in an attempt to reach consensus, the text of the draft resolution, which was a “Chapter VI resolution”, had been assessed to dispel the fears of some Council members about regime change, military intervention, arms embargo and sanctions.²⁰⁴ The representative of India stated further that the draft resolution expressly ruled out any measures under Article 42 of the Charter and called for a serious political dialogue between the Syrian Government and the whole spectrum of the opposition under the auspices of the League of Arab States.²⁰⁵ Similar remarks were made by the representative of Azerbaijan who emphasized that the resolution supported the idea of a peaceful solution to the crisis in Syria and that no provision in the draft authorized measures under Article 42 of the Charter.²⁰⁶

²⁰⁰ [S/2012/77](#).

²⁰¹ [S/PV.6711](#), p. 2.

²⁰² *Ibid.*, p. 4 (France), p. 5 (United States) and p. 7 (United Kingdom).

²⁰³ *Ibid.*, p. 5.

²⁰⁴ *Ibid.*, p.7.

²⁰⁵ *Ibid.*, p. 8.

²⁰⁶ *Ibid.*, pp. 11- 12.

Case 6

The situation between Iraq and Kuwait

On 27 June 2013, the Council held its 6990th meeting, during the course of which it adopted resolution [2107 \(2013\)](#), terminating a series of measures against Iraq that had been adopted under Chapter VII concerning the repatriation of Kuwaiti nationals (including members of Kuwait's armed forces held as prisoners of war) and the return of the remains of deceased Kuwaiti and third-country nationals as well as Kuwaiti property seized by Iraq.²⁰⁷ By virtue of resolution [2107 \(2013\)](#), the Council also terminated the involvement of the Secretary-General in reporting specifically on the compliance by Iraq with the Chapter VII measures mentioned above.²⁰⁸ The resolution recognized that the situation existing in Iraq was significantly different from that which existed at the time of the adoption of resolution [661 \(1990\)](#). It also recognized the importance of Iraq achieving international standing equal to that prior to resolution [661 \(1990\)](#).²⁰⁹ Most importantly, the resolution welcomed the ongoing cooperation between Iraq and Kuwait regarding the search for missing Kuwaiti and third-country nationals and “with consideration to the provisions of Chapter VI of the Charter of the United Nations on the pacific settlement of disputes”, called upon the Government of Iraq to continue cooperation with the International Committee of the Red Cross (ICRC)²¹⁰ for the search of persons still unaccounted for as well as missing property.²¹¹ The resolution also requested the Special Representative of the Secretary-General in Iraq to promote, support and facilitate efforts in this regard and requested the Secretary-General to report separately to the Security Council on these matters in his reports on the progress made towards the fulfilment of the responsibilities of the United Nations Assistance Mission to Iraq (UNAMI).²¹²

Following the adoption, the Minister for Foreign Affairs of Iraq stated that the Council was meeting to adopt a resolution to “remove Iraq from the provisions of Chapter VII of the

²⁰⁷ Resolution [686 \(1991\)](#), paras. 2(c), 2(d) and 3 (c) and resolution [687 \(1991\)](#), para. 30.

²⁰⁸ Resolution [1284 \(1999\)](#), para. 14.

²⁰⁹ Resolution [2107 \(2013\)](#), second preambular paragraph.

²¹⁰ The search for Kuwaiti and third-country nationals and property had taken place under the auspices of the ICRC as provided for in resolution [686 \(1991\)](#).

²¹¹ *Ibid.*, fourth preambular paragraph and para. 2.

²¹² *Ibid.*, para. 4.

Charter”.²¹³ He assessed the achievements of Iraq in regaining international standing and noted, with respect to the situation between Iraq and Kuwait, that only the issue of missing Kuwaitis and property remained open. He indicated that significant progress had been achieved under bilateral cooperation and affirmed that Iraq would continue to cooperate and “to step up the pace of [Iraq’s] cooperation” now that the issue had been “transferred to coverage under the provisions of Chapter VI”.²¹⁴ He further assessed that resolution [2107 \(2013\)](#) represented a significant development in the relationship between Iraq and Kuwait and would serve as a model for resolving disputes between States by peaceful means.

Case 7

Implementation of the note by the President of the Security Council (S/2010/507)

On 29 October 2013, the Security Council held its 7052nd meeting on its working methods further to the concept note circulated by Azerbaijan.²¹⁵ During the course of the debate, speakers made reference to actions of the Council under Chapters VI and VII of the Charter. The representative of Pakistan believed that the Council should rely more on diplomacy and the peaceful settlement of disputes under Chapter VI of the Charter.²¹⁶ In his assessment, an excessive reliance on Chapter VII could lead to impasse on several issues and create an erroneous impression of the “sanctity and force” of non-Chapter VII resolutions.²¹⁷ The representative of India emphasized that before mandating measures under Chapter VII of the Charter, the Council should first make serious efforts for the pacific settlement of disputes through measures under Chapter VI.²¹⁸ The representative of New Zealand affirmed that much more needed to be done to enable the Council to perform more effectively its most neglected Charter responsibilities, namely those under Chapter VI, concerning conflict prevention and peaceful settlement of disputes.²¹⁹ He recalled that preventive initiatives were less costly in terms of resources and lives than peacekeeping or peace enforcement and more likely to deliver

²¹³ [S/PV.6990](#), p. 2.

²¹⁴ *Ibid.*, p. 3.

²¹⁵ [S/2013/613](#).

²¹⁶ [S/PV.7052](#), p. 15.

²¹⁷ *Ibid.*

²¹⁸ *Ibid.*, p. 23.

²¹⁹ [S/PV.7052 \(Resumption 1\)](#), p. 8.

lasting outcomes that would address the root causes of conflict.²²⁰ Echoing New Zealand, the representative of Turkey mentioned that the Council should make better use of measures under Chapter VI of the Charter.²²¹ He added that without prejudice to the measures under Chapter VII, the Council should “give some thought” to utilizing different ways to reach a peaceful settlement of disputes.²²²

B. Referral of legal disputes in the light of Article 36 of the Charter

Article 36 of the Charter provides that, as a general rule, legal disputes should be referred to the International Court of Justice by the parties. During the period under review and as illustrated by the case featured below, speakers encouraged the Council to refer more frequently legal disputes to the ICJ and to seek the Court’s legal advice on issues of legal complexity. In addition, speakers called on the Council and Member States to strengthen the role of the Court by means of a more frequent recourse to the Court and by accepting its jurisdiction.

Case 8

The promotion and strengthening of the rule of law in the maintenance of international peace and security

At its 6705th meeting, the Security Council considered the report of the Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies.²²³ Speakers agreed that the rule of law was critical in preventing conflict and rebuilding societies. To strengthen it, the representative of Germany proposed more frequent use of Article 36 of the Charter, which allowed the Council to recommend to States to refer legal aspects of international disputes to the International Court of Justice.²²⁴ In addition, he called upon more Member States

²²⁰ Ibid. This idea was reiterated by the representative of New Zealand during the 6903rd meeting of the Council on United Nations peacekeeping (see [S/PV.6903](#), p. 25).

²²¹ [S/PV.7052 \(Resumption 1\)](#), p. 10.

²²² Ibid.

²²³ [S/2011/634](#).

²²⁴ [S/PV.6705](#), p. 4.

to accept the compulsory jurisdiction of the Court as a means of further anchoring the rule of law both within the Council and in international relations.²²⁵

The representative of Pakistan agreed with the report of the Secretary-General in that the Council needed to strengthen its support for the International Court of Justice, including requesting advisory opinions when faced with issues of legal intricacy.²²⁶ Echoing Pakistan, the representative of South Africa added that making requests for advisory opinions would show that the old debate about whether the Council functioned above international law was “passé” and that the Council operated within the framework of international law in its actions.²²⁷ Similarly, the representative of Brazil affirmed that the work of the International Court of Justice helped to uphold the primacy of law in international affairs and that the Council should further explore the advisory role of the Court.²²⁸ The representative of Peru underscored the work of the International Court of Justice in resolving disputes among States and, in this regard, noted that two factors determined the contribution and commitment of States to the maintenance of international peace and security, namely, the recognition of the Court’s contentious jurisdiction, and the recognition and full compliance with its rulings.²²⁹ Echoing Peru’s position, the representative of Costa Rica emphasized that the Council should maintain its support of the Court, in particular in the event of non-compliance with the obligations stemming from the decisions adopted by the Court, pursuant to Article 94 of the Charter.²³⁰

The representative of Mauritius affirmed that the international community had yet to set up adequate machinery for the settlement of legal disputes available to States. He noted that only about one third of the United Nations membership had made declarations under Article 36 of the Statute of the Court to accept its compulsory jurisdiction and that many States that had stated such declarations, had also voiced reservations limiting the Court’s jurisdiction or, in many cases, excluding it. He added that other States sought to vary or revoke their declaration when a dispute was submitted or was about to be submitted to exclude the jurisdiction of the Court over the dispute concerned, illustrating the difficulties faced by States in settling disputes

²²⁵ Similar calls were made by other speakers. See [S/PV.6705](#), p. 6 (Portugal), p. 16 (Guatemala), p. 17 (Pakistan), p. 20 (South Africa), and [S/PV.6705 \(Resumption 1\)](#), p. 2 (European Union).

²²⁶ [S/PV.6705](#), p. 17.

²²⁷ *Ibid.*, p. 20.

²²⁸ *Ibid.*, p. 23.

²²⁹ *Ibid.*, p. 26.

²³⁰ *Ibid.*, p. 29.

under international law.²³¹ The representative of Kyrgyzstan affirmed that the role of the International Court of Justice as the principal judicial organ of the United Nations was significant and that it should be one of the key mechanisms for the peaceful settlement of disputes.²³²

During the course of the meeting, the Council issued a presidential statement, emphasizing the key role of the International Court of Justice in adjudicating disputes among States and the value of its work. To this end the Council called upon those States that had not yet done so to consider accepting the jurisdiction of the Court in accordance with its Statute.²³³

On 17 October 2012, the Council held its 6849th meeting on peace and justice with a special focus on the International Criminal Court on the basis of a concept note circulated by Guatemala.²³⁴ The representative of India stated that the Security Council needed to lay more emphasis on Chapter VI of the Charter rather than on coercive measures and recalled that the International Court of Justice had a role under the Charter in adjudicating disputes between States.²³⁵ In the same vein, the representative of Pakistan affirmed that the rule of law was strengthened if there were no exceptions or double standards in the application of international law and that the Council would promote the rule of law by more frequent recourse to the International Court of Justice.²³⁶ The representative of Honduras called on States to accept the jurisdiction of the Court without reservation.²³⁷

C. Reference to peaceful means of settlement in light of Article 33 of the Charter

Article 33 of the Charter refers to a broad variety of means of resolving disputes. As illustrated by the cases included below, during the period under review, the Security Council continued to focus on the role of women in the peaceful settlement of disputes as well as on the role of regional organizations for global conflict prevention.

Indeed, insofar as it concerns the item of Women and Peace and Security, speakers showed consensus in the need for women's involvement as a vehicle for conflict prevention,

²³¹ [S/PV.6705 \(Resumption 1\)](#), pp. 10-11.

²³² *Ibid.*, p. 21.

²³³ [S/PRST/2012/1](#).

²³⁴ [S/2012/731](#), annex.

²³⁵ [S/PV.6849](#), p. 11.

²³⁶ *Ibid.*, p. 12.

²³⁷ [S/PV.6849 \(Resumption 1\)](#), p. 12.

conflict resolution and peacebuilding and that such participation was indispensable in promoting lasting peace. The Council captured the discussions on this topic in resolution [2122 \(2013\)](#), expressing its intention to focus more attention on women's participation in conflict resolution and peacebuilding and recognizing the need to increase women's participation in all discussions pertinent to the prevention and resolution of armed conflict.

The Council also dwelled on the regional dimensions of conflict prevention in its discussions under the item entitled Peace and Security in Africa. During the discussions on that agenda item, speakers praised the conflict prevention architecture developed by the African Union and emphasized the importance of partnerships between regional and subregional organizations. Speakers also made reference to other means of conflict prevention such as good offices, mediation, dialogue, early warning mechanisms and preventive diplomacy.

Case 9

Women and Peace and Security

On 30 November 2012, the Council held its 6877th meeting on women and peace and security in the context of which, speakers considered the report of the Secretary-General.²³⁸ During the debate, speakers focused on the role of women in conflict prevention and peacebuilding.²³⁹ The Under-Secretary-General for Peacekeeping Operations affirmed that women could and should play a leading role in political participation, conflict resolution and the transition from conflict to peace.²⁴⁰ He also gave concrete examples of successful resolution of conflicts by women.²⁴¹ The representative of the NGO Working Group on Women, Peace and Security noted that despite the constraints and barriers, women played a central role in the prevention and resolution of conflicts and in peacebuilding at community, national and

²³⁸ [S/2012/732](#).

²³⁹ The participation of women in conflict prevention and conflict resolution was discussed also in other meetings of the Council. During its 6903rd meeting on 21 January 2013, for instance, under the agenda item entitled "United Nations peacekeeping operations", speakers welcomed the efforts of the Secretary-General in fostering greater representation of women in conflict prevention, conflict resolution and peacebuilding ([S/PV.6903](#)). The Council at that meeting unanimously adopted resolution [2086 \(2013\)](#) noting that multidimensional peacekeeping missions could be mandated to, inter alia, support the participation of women in conflict prevention, conflict resolution and peacebuilding (para 8 (j)).

²⁴⁰ [S/PV.6877](#), p. 6.

²⁴¹ *Ibid.*

international levels, from early warning to post-conflict reconstruction.²⁴² The representative of South Africa, however, noted with concern the continuing underrepresentation of women in formal peace processes and called, therefore, for a more regular review of the status of implementation of the recommendations of the Secretary-General in this regard.²⁴³ The representative of the Russian Federation added that the direct involvement of women in conflict prevention and settlement was an important precondition for overcoming violence against them.²⁴⁴ The representative of Guatemala stated further that without security for women, no lasting peace could be achieved.²⁴⁵ The representative of China noted that although women tended to be victims in conflict and post-conflict situations, they were also important partners in the prevention and mediation of conflicts and in post-conflict reconstruction;²⁴⁶ a position that was echoed by the representative of Croatia.²⁴⁷ The representative of China added that when deliberating on conflict and post-conflict situations, the Council should include as central elements the protection of women and their rights.²⁴⁸ The representative of the European Union, echoing comments by most speakers, indicated that women's organizations played a particularly important role in conflict prevention, conflict resolution and building sustainable peace.²⁴⁹ The representative of Lithuania remarked that mainstreaming gender perspectives into conflict prevention, conflict resolution and post-conflict rehabilitation remained an unfinished business and urged that continuous engagement by the Security Council on the subject be required.²⁵⁰ The representative of Latvia recalled the need to build on women's role as agents of conflict resolution and sustained recovery. She added that the role of women was important in the whole crisis cycle, from the prevention and resolution of conflict to peacebuilding, post-conflict reconciliation and reintegration.²⁵¹ In the same vein, the representative of Botswana stressed the importance of creating enabling conditions for the participation of women during all stages of

²⁴² Ibid., p. 8.

²⁴³ Ibid., p. 12.

²⁴⁴ Ibid., p. 15.

²⁴⁵ Ibid., p. 18.

²⁴⁶ Ibid., p. 24.

²⁴⁷ Ibid., p. 48.

²⁴⁸ Ibid., p. 24.

²⁴⁹ Ibid., p. 29.

²⁵⁰ Ibid., p. 52.

²⁵¹ Ibid., p. 53. ;

peace processes.²⁵² The representative of Tunisia highlighted the importance of further mobilizing technical support for civil society, in particular, women's organizations, given their significant role in preempting the escalation of violence against women through enhancing early warning mechanisms and in developing women's capacities to participate actively in conflict prevention, mediation and resolution processes.²⁵³

On 24 June 2013, the Council held its 6984th meeting on sexual violence in conflict further to the concept note circulated by the United Kingdom.²⁵⁴ During the meeting, the representative of Australia affirmed that sexual violence was both a tactic and a consequence of conflict. He added that it could prolong and deepen conflict and its prevention was intrinsic to the protection of civilians in conflict and to rebuilding societies devastated by conflict.²⁵⁵ He clarified that women were not just victims but critical agents in conflict prevention, resolution, rebuilding and reconciliation and urged the Council to utilize their decisive power to bring about peace.²⁵⁶ The representative of Luxembourg stated that sexual violence was indisputably a subject directly linked to international peace and security and that restorative and punitive justice for crimes committed could play a prevention role in terms of future conflict.²⁵⁷ The representative of Sweden affirmed in this regard that equal participation of men and women in conflict prevention and peacebuilding was fundamental to combating sexual violence.²⁵⁸ The representative of the Netherlands noted that the role of women in finding solutions through conflict prevention, resolution and transformation was often underestimated and their capacity in that regard was underutilized, ultimately decreasing the effectiveness and likelihood of success of any peace and reconstruction process.²⁵⁹ He concluded that the participation of women in finding solutions to conflicts and in reconstruction processes was indispensable.²⁶⁰ In the same vein, the representative of Canada affirmed that the Council should take concrete measures to support women's opportunities for equal participation and decision-making in all conflict-

²⁵² Ibid., p. 61.

²⁵³ Ibid., p. 67.

²⁵⁴ [S/2013/335](#).

²⁵⁵ [S/PV.6984](#), p. 20.

²⁵⁶ Ibid., p. 21.

²⁵⁷ Ibid., p. 23.

²⁵⁸ Ibid., p. 28.

²⁵⁹ Ibid., p. 48.

²⁶⁰ Ibid.

prevention and resolution processes.²⁶¹ Echoing previous interventions, the representative of Bosnia and Herzegovina stated that involving women in conflict prevention and mediation and deploying women's protection advisers to United Nations peacekeeping and special political missions was crucial to building and reinforcing peace.²⁶²

On 18 October 2013, the Council held its 7044th meeting on women, rule of law and transitional justice in conflict-affected situations further to the concept note from Azerbaijan.²⁶³ At the meeting, the Council unanimously adopted resolution [2122 \(2013\)](#), expressing its intention to focus more attention on women's leadership and participation in conflict resolution and peacebuilding and recognizing the need to increase women's participation and the consideration of gender-related issues in, inter alia, all discussions pertinent to the prevention and resolution of armed conflict.²⁶⁴

During the ensuing debate, the Secretary-General commended the Council for having adopted resolution [2122 \(2013\)](#), underscoring the central importance of women's participation in conflict prevention, conflict resolution and peacebuilding.²⁶⁵ The Executive Director of the United Nations Entity for Gender Equality and Empowerment of Women emphasized that women's leadership was central to reconciliation and conflict resolution, and to peacebuilding efforts that brought results for families and communities.²⁶⁶ The representative of the United States called on the Council to take concrete steps so that women would share fully in efforts to avoid and contain conflict just as they inevitably would share the suffering when such efforts were poorly designed or failed.²⁶⁷ Many speakers noted the importance of effective participation of women for sustainable peace and social stability.²⁶⁸ The representative of Indonesia stated that the resolution adopted was a clear reflection of the resolve of the Council concerning the role of women in conflict prevention, conflict resolution, peacebuilding and peacekeeping.²⁶⁹

²⁶¹ Ibid., p. 51.

²⁶² [S/PV.6984](#), p. 56.

²⁶³ [S/2013/587](#).

²⁶⁴ [S/RES/2122 \(2013\)](#), paras. 1 and 6.

²⁶⁵ [S/PV.7044](#), p. 3.

²⁶⁶ Ibid., pp. 5 - 6.

²⁶⁷ Ibid., p. 12.

²⁶⁸ Ibid., p. 13 (Australia), p. 20 (China), p.27 (Brazil), p. 33 (New Zealand), p. 37 (Lithuania), and pp. 48-49 (Bosnia Herzegovina).

²⁶⁹ Ibid., p. 70.

Case 10

Peace and Security in Africa

On 15 April 2013, the Security Council held its 6946th meeting on the prevention of conflicts in Africa: addressing the root causes, further to Rwanda's concept note.²⁷⁰ The President of the Council expressed the hope that the meeting would be an occasion for the Council to revisit the concept and practice of conflict prevention within the United Nations system.²⁷¹ The Secretary-General in his address to the Council emphasized the importance of mediation efforts to ensure that peace agreements were not just pacts between political elites to address an immediate political problem but should also deal with the underlying causes of conflict and allow all stakeholders to participate.²⁷² He added that they should also be fully implemented, monitored and enforced.²⁷³ He also noted that given the increasingly interconnected world, regional action to prevent or address conflicts was all the more important.²⁷⁴ In this regard, the representative of Togo emphasized the need for Africa to find locally generated structural solutions to address the deep causes of conflict.²⁷⁵ He also called on the Council to use conflict prevention mechanisms as much as possible, making reference to Articles 40 and 41 of the Charter, which he assessed, would promote early-warning systems and strengthen the role of the Security Council in conflict prevention.²⁷⁶ The representative of Australia made reference to the peace and security architecture built by the African Union, in particular by the strategic use by its Peace and Security Council and the Peace and Security Department of representatives and missions, the appointment of high-level mediators and the dispatch of fact-finding missions.²⁷⁷ He further encouraged the support of the evolving conflict-prevention mechanisms at the African Union such as the Continental Early Warning System and the Panel of the Wise and the African Peer Review Mechanism.²⁷⁸ He also urged the Council to make better use of preventive tools including horizon-scanning and increased responsiveness to

²⁷⁰ [S/2013/204](#).

²⁷¹ [S/PV.6946](#), p. 2.

²⁷² *Ibid.*

²⁷³ *Ibid.*

²⁷⁴ *Ibid.*, p. 3.

²⁷⁵ *Ibid.*, p. 6.

²⁷⁶ *Ibid.*

²⁷⁷ *Ibid.*, p. 8.

²⁷⁸ *Ibid.*, p. 9.

early warning signs.²⁷⁹ For the representative of the United States, there was a need to, inter alia, strengthen the focus on governance and institution building as a means of preventing or overcoming conflict.²⁸⁰ The representative of Argentina affirmed that any method that settled disputes peacefully was also worth using for settling conflicts and emphasized in this regard the role entrusted in the Charter of the United Nations to the Secretary-General in the area of good offices and mediation and the obligation of Member States to consent to the peaceful resolution of disputes.²⁸¹ The representative of the Russian Federation noted that the successful prevention of conflicts, particularly in Africa, depended on the skillful use of a number of specific tools, including early warning and response, preventive diplomacy, mediation, good offices, reconciliation and confidence-building measures. He drew attention to the value of regional and subregional organizations and to the availability of more customized preventive diplomacy mechanisms that take into account the local specifics.²⁸² The representatives of China and Luxembourg assessed that it was essential to leverage the role of the United Nations Peacebuilding Commission in helping post-conflict countries consolidate peace.²⁸³ The representative of Luxembourg also noted the importance of partnerships and cooperation among the Security Council, the African Union and subregional organizations in the area of conflict prevention.²⁸⁴ The representative of Pakistan emphasized that greater reliance on the preventive diplomacy tools provided under Chapter VI of the Charter as well as Chapter VIII would help prevent conflicts and stall recrudescence.²⁸⁵ He also lauded the role of the United Nations regional offices in providing services to prevent conflicts and in helping post-conflict countries with good offices, mediation, dialogue, electoral assistance and assistance for security sector reform and disarmament, demobilization, and reintegration as well as the African Union's resort to a wide array of tools available under Chapter VI of the Charter.²⁸⁶ The representative of the United Kingdom stated that when a crisis was on the horizon, it was necessary to spot it early and that improving early-warning systems was vital.²⁸⁷ He mentioned the role played in this

²⁷⁹ Ibid.

²⁸⁰ Ibid., pp.9-10.

²⁸¹ Ibid., p. 13.

²⁸² Ibid., p. 14.

²⁸³ Ibid., p. 16 (China) and p. 18 (Luxembourg).

²⁸⁴ Ibid., p. 18.

²⁸⁵ Ibid., p. 19.

²⁸⁶ Ibid., p. 20.

²⁸⁷ Ibid., p. 21.

regard by the United Nations Office for West Africa and the United Nations Regional Office for Central Africa and expressed hope about the then newly established United Nations Crisis and Operations Centre.²⁸⁸ He affirmed in addition that much more was necessary with regard to mediation and preventative diplomacy, denouncing that too many members of the Council shied away from their responsibilities with regard to conflict prevention.²⁸⁹ The representative of Morocco acknowledged the unprecedented mobilization in Africa to address the security and stability challenges facing the region through the mediation of the Economic Community of West African States, the Economic Community of Central African States and the International Conference on the Great Lakes Region.²⁹⁰ He underlined that strengthening cooperation between the United Nations and the affected countries of the region and the subregion in order to support State institutions and the various mechanisms established at the subregional level to tackle the underlying causes of conflicts was more essential than ever.²⁹¹ The representative of the Republic of Korea brought attention to homegrown conflict-resolution mechanisms rooted in local practice arguing that they could fill the gap and meet local needs for justice, peace and reconciliation.²⁹² He added that institutions of national pride and integrity, such as a forum of elders, could offer a path to conflict prevention, reconciliation and peacebuilding which would provide the best answers to conflicts involving diverse ethnic and cultural backgrounds.²⁹³ In recalling the basic tools available under the Charter in case of conflict, the representative of France noted that the Security Council could also send political messages, take preventive measures, or even impose sanctions as necessary.²⁹⁴ As an example, he made reference to the mediation conducted by President Mbeki between the Sudan and South Sudan, with the support of the Security Council, and the Secretary-General's Framework agreement on the Democratic Republic of the Congo and the Great Lakes region, supported by the African Union, showing that the United Nations and African organizations had the ability to tackle together the specific root causes of conflicts.²⁹⁵ The representative of Rwanda affirmed that the collaboration and

²⁸⁸ Ibid.

²⁸⁹ Ibid.

²⁹⁰ Ibid., p. 22.

²⁹¹ Ibid., p. 23.

²⁹² Ibid., p. 24.

²⁹³ Ibid.

²⁹⁴ Ibid., pp. 24-25.

²⁹⁵ Ibid., p. 25.

partnership among the Security Council, the African Union and its subregional organizations was of the utmost importance and welcomed the strengthening of that cooperation over recent years including through the Ad Hoc Working Group on Conflict Prevention and Resolution in Africa.²⁹⁶

D. Utilization of Article 99 by the Secretary-General for the pacific settlement of disputes

Article 99 of the Charter provides that the Secretary-General may bring to the attention of the Council matters that, in his opinion, may endanger the maintenance of peace and security. The utilization of Article 99 of the Charter by the Secretary-General was explicitly discussed in the context of two meetings relating to the implementation of the note by the President of the Security Council (S/2010/507). In those meetings, several speakers supported the practice of horizon-scanning in application of Article 99 of the Charter, as described below.

Case 11

Implementation of the note by the President of the Security Council (S/2010/507)

During the discussion in the 6870th meeting of the Security Council on 26 November 2012, the representative of Luxembourg made reference to Article 99 of the Charter in affirming that the practice of horizon-scanning (initiated by the United Kingdom in November 2010) was a good example of applying that provision.²⁹⁷ Other speakers also made reference to horizon-scanning and praised its utility for the Council urging that it became a regular practice of the Council.²⁹⁸

On the same topic, during the 7052nd meeting of 29 October 2013, the representative of the United Kingdom welcomed the Secretariat's readiness to bring troubling situations to the attention of the Council thereby making Article 99 an active tool for conflict prevention.²⁹⁹ Several other Council members and non-members endorsed the use of means at the disposal of

²⁹⁶ Ibid., p. 27

²⁹⁷ [S/PV.6870](#), p. 26.

²⁹⁸ Ibid., p. 3 (Portugal), p. 7 (Germany), p. 9 (United Kingdom), p. 24 (New Zealand), and p. 30 (Switzerland).

²⁹⁹ [S/PV.7052](#), p. 6.

the Council to prevent conflicts, singling out horizon-scanning briefings from the Secretariat as a particularly useful tool to quickly respond to threats to peace and security.³⁰⁰ The representative of the Russian Federation noted, however, that horizon-scanning sessions had evolved into provisional discussions of issues that Council members themselves planned to discuss at a later time or that were beyond the Council's purview but were being discussed for the sole purpose of using a modern format. In his view, when the Council's programme was busy such conduct became unnecessary.³⁰¹

The representative of France also made reference to the utilization of Article 99 by the Secretary-General. This was in the context of the impasse that the Security Council faced in the context of the Syrian conflict due to the use of the right of veto. He recalled the President of France's proposal to create a code of conduct with guidelines for the use of the right of veto and he emphasized that this would entail the suspension of the right of veto when a situation involving a crime on a massive scale was considered to have occurred.³⁰² In that connection, the representative of France suggested that, in the spirit of Article 99 of the Charter, the Secretary-General could have a central role in establishing an alert mechanism that would trigger the application (albeit voluntary) of the code of conduct.

³⁰⁰ [S/PV.7052](#), p. 4 (Luxembourg), p. 6 (United Kingdom), p. 16 (Australia), p. 20 (Switzerland), p. 26 (Sweden); [S/PV.7052 \(Resumption 1\)](#), p. 8 (New Zealand), p. 9 (Belgium, on behalf also of Netherlands), p. 10 (Turkey), p. 12 (Spain), and p. 19 (Ireland).

³⁰¹ [S/PV.7052](#), p. 14.

³⁰² *Ibid.*, p. 13.